IN THE

Supreme Court of the United States

October Term, 1977

Supreme Court, U. S.
FILED
AUG 31 1977
MICHAEL RODAK, JR., CLERK

No. 77-114

WILLIAM J. QUIRK and LEON E. WEIN,
Appellants,

against

MUNICIPAL ASSISTANCE CORPORATION FOR THE CITY OF NEW YORK and THE CITY OF NEW YORK,
Appellees,

and

LOUIS J. LEFKOWITZ,
Attorney General of the State of New York,
Intervenor-Appellee.

On Appeal from the Court of Appeals of the State of New York

ADDENDUM OF CONSTITUTIONAL AND STATUTORY PROVISIONS

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TABLE OF CONTENTS

PAGE

UNITED STATES CONSTITUTION

Art. 1, §10, Cl. 1 ..... Add. 1

NEW YORK STATE CONSTITUTION

Art. 8, §2, ¶2, Cl. 1 ..... Add. 1

Art. 8, §2. ¶4 ..... Add. 1

Art. 8, §12 ..... Add. 2

THE MAC LEGISLATION

New York State Municipal Assistance Corporation Act, L. 1975, Ch. 168 ..... Add. 3

Municipal Assistance Corporation for the City of New York Act, L. 1975, Ch. 169 ..... Add. 26

PRINCIPAL AMENDMENTS TO THE MAC LEGISLATION

L. 1975, Ch. 868, §§9-12, 16, 20-21 ..... Add. 41

L. 1975, Ch. 870, §§16-18, 27 ..... Add. 52

L. 1975, Ch. 889 ..... Add. 58

L. 1975, Ch. 891 ..... Add. 60

L. 1977, Ch. 185 ..... Add. 62

L. 1977, Ch. 456 ..... Add. 65

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CONSTITUTIONAL PROVISIONS

(Pages Add. 1 to Add. 2)

UNITED STATES CONSTITUTION

Art. 1, §10, Cl. 1:

"No State shall . . . pass any . . . Law impairing the Obligation of Contracts. . . ."

NEW YORK STATE CONSTITUTION

Art. 8, §2, ¶2, Cl. 1:

"No indebtedness shall be contracted by any . . . city . . . unless such . . . city . . . shall have pledged its faith and credit for the payment of the principal thereof and the interest thereon."

Art. 8, §2, ¶4:

"Provision shall be made annually by appropriation by every . . . city . . . for the payment of interest on all indebtedness and for the amounts required for (a) the amortization and redemption of term bonds, sinking fund bonds and serial bonds, (b) the redemption of certificates or other evidence of indebtedness (except those issued in anticipation of the collection of taxes or other revenues . . . and those issued in anticipation of the receipt of the proceeds of the sale of bonds theretofore authorized) contracted to be paid in such year out of the tax levy or other revenues applicable to a reduction thereof, and (c) the redemption of certificates or other evidence of indebtedness

issued in anticipation of the collection of taxes or other revenues, or renewals thereof, which are not retired within five years after their date of original issue. If at any time the respective appropriating authorities shall fail to make such appropriations, a sufficient sum shall be set apart from the first revenues thereafter received and shall be applied to such purposes. The fiscal officer of any . . . city . . . may be required to set apart and apply such revenues as aforesaid at the suit of any holder of obligations issued for any such indebtedness."

Art. 8, §12:

"It shall be the duty of the legislature, subject to the provisions of this constitution, to restrict the power of taxation, assessment, borrowing money, contracting indebtedness, and loaning the credit of . . . cities . . . so as to prevent abuses in taxation and assessments and in contracting of indebtedness by them. Nothing in this article shall be construed to prevent the legislature from further restricting the powers herein specified of any . . . city . . . to contract indebtedness or to levy taxes on real estate. The legislature shall not, however, restrict the power to levy taxes on real estate for the payment of interest on or principal of indebtedness theretofore contracted."

THE MAC LEGISLATION

(Pages Add. 3 to Add. 40)

Municipal Assistance Corporation Act

CHAPTER 168

An Act to amend the public authorities law, in relation to municipal assistance corporations; to amend the tax law, in relation to the municipal assistance sales and compensating use tax; and to amend the state finance law, in relation to the municipal assistance tax fund.

Approved and effective June 10, 1975.
Passed on message of necessity. See Const. art. IX, § 2(b)(2), and McKinney's Legislative Law § 44.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article ten and sections three thousand through three thousand two of the public authorities law are hereby renumbered to be article eleven and sections thirty-five hundred through thirty-five hundred two, respectively, and a new article ten is hereby inserted therein, to read as follows:

ARTICLE 10—NEW YORK STATE MUNICIPAL ASSISTANCE CORPORATION ACT

Title
I. Short title; general definitions; legislative findings and statement of purposes.
II. General provisions relating to municipal assistance corporations.

TITLE I—SHORT TITLE; GENERAL DEFINITIONS; LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSES

Sec.
3001. Short title.
3002. Legislative findings and statement of purposes.
3003. Definitions.

§ 3001. Short title

This article shall be known and may be cited as the "New York State Municipal Assistance Corporation Act".

§ 3002. Legislative findings and statement of purposes

It is hereby found and declared that, by reason of the severe economic and social dislocations of recent years, there has been a great increase in the need and demand for public services at a time when financing such services has become increasingly difficult, and that, due to a general decline in investor acceptance of local government securities and to almost unprecedented interest rates, a number of municipalities in this state have, despite the financial soundness of their obligations, recently faced increased difficulty in selling a sufficient amount of their securities to enable them to refund their outstanding obligations or to meet their cash requirements. For the immediate future, this increased difficulty has caused concern that such municipalities may be unable to provide, without interruption, many services essential to their inhabitants while also meeting their obligations to the holders of their outstanding securities as they come due. It is in the public interest and is the policy of this state to assist municipalities attempting to provide, without interruption, services essential to their inhabitants while meeting their obligations to the holders of their outstanding securities. The impairment of the credit of the municipalities within the state may affect the ability of the state to issue its own obligations at normal interest rates. Such effect is a matter of state concern. It is further declared that the state should exercise its power in the interest of such municipalities and should implement such policy by authorizing on behalf of each municipality which is found by the legislature to require the state's assistance and which expressly requests such assistance, the creation of a state instrumentality to be a body corporate and politic, having full powers to borrow money and to issue its bonds and notes for the purpose of providing to that municipality assistance sufficient to enable it to avoid the interruption of services essential to its inhabitants while meeting its obligations to the holders of its outstanding securities. It is further declared to be in the public interest and is the policy of this state that each such instrumentality shall provide financial assistance to a municipality only if that municipality agrees to make and observe such changes in its record keeping, accounting, budgeting and financial management practices as that instrumentality may be authorized, by the special law creating it, to require as a condition of providing financial assistance.

§ 3003. Definitions

As used in this article, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

1. "Municipality" means any city in the state.
2. "State" means the state of New York.
3. "Governor" means the governor of the state of New York.

4. "Comptroller" means the comptroller of the state of New York.
5. "Director of the budget" means the director of the budget of the state of New York.
6. "Legislature" means the legislature of the state of New York.
7. "Special law" means the special law of the legislature pursuant to which a municipal assistance corporation is created.
8. "Municipal assistance corporation" means a corporation created pursuant to section three thousand ten of this article.
9. "Bonds" and "notes" means bonds and notes, respectively, issued by a municipal assistance corporation pursuant to this article.
10. "Obligations" means bonds and notes.
11. "Amortized value" means for securities purchased at a premium above or a discount below par, the value as of any given date obtained by dividing the total amount of the premium or discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed since the date of such purchase; and (a) in the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and (b) in the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.
12. "Revenues" means all federal or state aid, rents, fees, charges, payments and other income and receipts paid or payable to a municipal assistance corporation or for the account of a municipal assistance corporation, including any payment permitted or required to be made to such a corporation by this article.
13. "Board of directors" means the board of directors of a municipal assistance corporation.

TITLE II—GENERAL PROVISIONS RELATING TO MUNICIPAL ASSISTANCE CORPORATIONS

Sec.
3010. Creation; purposes and general powers of a municipal assistance corporation.
3011. Administration of a municipal assistance corporation.
3012. Issuance of notes and bonds of a municipal assistance corporation.
3013. Moneys of a municipal assistance corporation.
3014. Conditions on payment of funds to or purchase of obligations of municipality.
3015. Agreement with the state.
3016. State or state-aided municipality not liable on notes and bonds.
3017. Remedies of noteholders and bondholders.
3018. Notes and bonds as legal investments.
3019. Exemption from taxation.
3020. Actions against a municipal assistance corporation; indemnification.
3021. Assistance by state officers, departments, boards and commissions.

§ 3010. Creation; purposes and general powers of a municipal assistance corporation

A municipal assistance corporation shall be created by a special law of the legislature. The purposes of a municipal assistance corporation shall be to assist a municipality attempting to provide, without interruption, services essential to its inhabitants while meeting its obligation to the holders of its outstanding securities. Such assistance shall be provided through the issuance and sale of bonds and notes and paying or lending funds received from such sale to the municipality, or through the exchange of its obligations for obligations of the municipality. To carry out the aforesaid purposes, a municipal assistance corporation shall have, in addition to any powers specifically granted in the special act creating such municipal assistance corporation, the following powers: (1) to sue and be sued, (2) to have a seal and alter the same at pleasure; (3) to make and alter by-laws for its organization and internal management and, subject to agreements with noteholders or bondholders, to make rules and regulations governing the use of its property and facilities; (4) to make and execute contracts, leases, subleases and all other instruments or agreements necessary or convenient for the exercise of its powers and functions under this title; (5) to purchase real or personal property necessary and convenient for its corporate purposes; to execute and deliver deeds for real property held in its own name; and to sell or otherwise dispose of such real or personal property that, in the judgment of the municipal assistance corporation, is no longer necessary for its corporate purposes; (6) to appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation; (7) to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement; (8) subject to other provisions of law, to lend or otherwise transfer to the municipality for which the municipal assistance corporation was created such sums of money as are not required for other purposes; (9) to borrow money and to issue notes or bonds and to fund or refund the same, and to provide for the rights of the holders of its obligations; (10) subject to the provisions of any contract with noteholders or bondholders to invest any funds held in funds or accounts (except as hereafter provided), or any funds not required for immediate use or disbursement, at the discretion of the municipal assistance corporation, in obligations of the municipality being assisted or obligations of the state or federal government, obligations the principal of and interest on which are guaranteed by such municipality, the state or federal government, or obligations of agencies of such municipality, the state or federal government which may, from time to time, be legally purchased by savings banks of the state as investments of funds belonging to them or in their control and which have been approved by the comptroller or in a secured time deposit or other interest-bearing accounts secured by such obligations; provided, however, that no funds held in a capital reserve fund may be invested in obligations of or guaranteed by the municipality being assisted or

of any of its agencies; (11) subject to the provisions of any contract with noteholders or bondholders, to purchase notes or bonds of the corporation; (12) to procure insurance against any loss in such amounts and from such insurers as it deems desirable; (13) to engage the services of consultants on a contract basis for rendering professional and technical assistance and advice; (14) subject to the approval of the director of the budget to contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from any other source and to comply with the terms and conditions thereof; (15) as security for the payment of the principal of and interest on any bonds or notes so issued and any agreements made in connection therewith to pledge all or any part of its property or revenues; (16) to require any municipality to which assistance is provided under this article or any authority, agency or other body established by or on behalf of such municipality to make available all books and records, and to furnish copies of all financial statements, budgets, forecasts, projections and related information as may be requested; (17) to pay the expenses of the operation of the corporation, including but not limited to the repayment to the state of any advance to the corporation under any agreement between the corporation and the director of the budget out of any revenues available to the corporation and not otherwise pledged except the proceeds of its notes and bonds; and (18) to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this article or in the special act creating such municipal assistance corporation.

§ 3011. Administration of a municipal assistance corporation

1. Unless otherwise provided in a special law, a municipal assistance corporation shall be administered by a board of directors appointed by the governor with the advice and consent of the senate. The number and qualifications of such directors and their terms of office shall be set forth by a special law. The comptroller of the state of New York, or his representative shall be entitled to attend and participate in the meetings of the board of directors but shall have no vote.

2. The governor shall designate as chairman one of the directors appointed by him. The chairman shall preside over all meetings of the board of directors and shall have such other duties as may be prescribed by the board of directors.

3. The directors of a municipal assistance corporation shall serve without salary, but each director shall be entitled to reimburesment for his actual and necessary expenses incurred in the performance of his official duties as a director of the corporation and a per diem allowance of one hundred dollars when rendering services as such director, provided that the aggregate of such per diem allowance to any one director in any one fiscal year shall not exceed the sum of five thousand dollars. The directors, except as otherwise provided by law, may engage in private employment, or in a profession or business.

The directors of a municipal assistance corporation shall be deemed to be state officers for the purposes of sections seventy-three and seventy-four of the public officers law. Notwithstanding such provisions of the public officers law or of any other law, a municipal assistance corporation or any other state instrumentality (including any state agency, trust fund or public benefit corporation) may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any corporation, trust, association, partnership or other entity in which any director of such municipal assistance corporation has a financial interest, direct or indirect, and a municipal assistance corporation may engage in any such transaction with any other such state instrumentality with which any director of such municipal assistance corporation is affiliated as a state officer or employee, provided that such interest or affiliation is disclosed to such other state instrumentality and to the municipal assistance corporation, and, in the case of transactions with the municipal assistance corporation, such interest or affiliation is disclosed in the minutes of the board of directors of the municipal assistance corporation, and provided further that no director having such a financial interest or affiliation shall participate in any decision of the board of directors of the municipal assistance corporation authorizing or affecting such transaction.

4. A special law may provide for the appointment of one or more representatives to the board of directors. Such representative shall be entitled to receive notice of and to attend the meetings of the board of directors but shall not be entitled to vote. Such representative shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties as a representative to the corporation but shall not be entitled to a per diem allowance, unless specifically provided in the special law.

5. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or political division of the state, any governmental entity operating any public school or college or other public agency or instrumentality or unit of government which exercises governmental powers under the laws of the state, shall forfeit his office or employment by reason of his acceptance or appointment as a director, officer, employee or agent of a municipal astance corporation nor shall service as such director, officer, employee or agent of a municipal assistance corporation be deemed incompatible or in conflict with such office or employment.

6. Except as otherwise provided by special law, a majority of the whole number of authorized directors shall constitute a quorum for the transaction of any business and shall be required for the taking of any action or for the exercise of any power by the board of directors of a municipal assistance corporation. No vote at such meeting shall be cast by proxy. A municipal assistance corporation may delegate to one or more of its directors, or officers, agents and employees, such powers and duties as the directors may deem proper.

7. A municipal assistance corporation may appoint such officers, employees and agents as it may require, prescribe their duties and fix their compensation.

§ 3012. Issuance of notes and bonds of a municipal assistance corporation

1. (a) A municipal assistance corporation shall have the power and is hereby authorized from time to time to issue its notes and bonds in conformity with applicable provisions of the uniform commercial code, in such principal amounts as such corporation shall determine to be necessary within the limits of authorized indebtedness prescribed in the special law creating such corporation, to provide sufficient funds for achieving its corporate purposes, including the making of payments to or purchase of obligations of, the municipality for which the corporation was created, to make payments of interest on its notes and bonds, and to establish reserves to secure such notes and bonds.

(b) A municipal assistance corporation shall have the power, from time to time, to issue (i) notes to renew notes and (ii) bonds to pay notes, including the interest thereon and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its other corporate purposes. The refunding bonds may be exchanged for the bonds to be refunded or sold and the proceeds applied to the purchase, redemption or payment of such bonds.

(c) Except as may otherwise be expressly provided by a municipal assistance corporation, every issue of its notes and bonds shall be general obligations of the municipal assistance corporation payable out of any revenues of such corporation, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues.

(d) Such notes and bonds shall be authorized by resolution of a municipal assistance corporation, shall bear such date and shall mature at such time or times as such resolution may provide. The bonds may be issued as serial bonds or as term bonds or as a combination thereof. The notes and bonds shall bear interest at such rate or rates, be in such denominations and in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution may provide.

(e) The notes or bonds of the municipal assistance corporation may be exchanged for obligations of the municipality being assisted or may be sold at such price or prices, at public or private sale, in such manner and from time to time as may be determined by such corporation, and the corporation may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof. Subsequent to July 1, 1975, no notes or bonds of a municipal assistance corporation may be sold at private sale unless such sale and the terms thereof have been approved in

writing by (a) the comptroller where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

2. Any resolution authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the revenues to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist;

(b) pledging all or any part of the assets of the corporation to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(c) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(d) limitations on the purposes to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds of any issue thereof;

(e) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; and the refunding of outstanding or other notes or bonds;

(f) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(g) vesting in a trustee or trustees such property, rights, powers and dutes [1] in trust as the corporation may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this title, and limiting or abrogating the right of the bondholders to appoint a trustee under this title or limiting the rights, powers and duties of such trustee;

(h) the acts or omissions to act which shall constitute a default in the obligations and duties of the corporation to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in event of such default, including the right to appointment of a receiver; providing, however, that such rights and remedies shall not be inconsistent with the laws of the state and the other provisions of this article; and

(i) any other matters of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

3. Any pledge made by a municipal assistance corporation shall be valid and binding from the time when the pledge is made. The revenues or property so pledged and thereafter received by the municipal assistance corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against

the municipal assistance corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed to protect such pledge except in the principal office of the municipal assistance corporation.

4. Neither the directors of a municipal assistance corporation nor any other person executing the notes or bonds of such corporation shall be subject to any personal liability or accountability by reason of the issuance thereof.

5. A municipal assistance corporation subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor, to purchase notes or bonds of such corporation, which shall thereupon be cancelled.

6. Anything in this article ten to the contrary notwithstanding, any agreement or agreements with the holders of notes or bonds issued by any municipal assistance corporation created by or pursuant to any title of this article shall contain a clause stating in substance that any provision in this article or in any such agreement or agreements which relate to taxes imposed under article twelve or sections eleven hundred seven or eleven hundred eight of the tax law of the state or to the funds created by sections ninety-two-b and ninety-two-d of the state finance law shall be deemed executory only to the extent of the moneys available to the state in such funds from time to time and no liability on account thereof shall be incurred by the state beyond the moneys available in such funds.

7. In the discretion of the directors of a corporation the notes or bonds may be secured by a trust indenture by and between such corporation and a trustee, which may be any trust company or bank having the powers of a trust company in the state. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the noteholders or bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the exercise of its corporate powers and the custody, may provide by such trust indenture for the payment of the proceeds of the notes or bonds and the revenues to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the operating expenses of the corporation. If the notes or bonds shall be secured by a trust indenture, the noteholders or bondholders shall have no authority to appoint a separate trustee to represent them.

8. Whether or not the notes and bonds are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the notes and bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes and bonds for registration.

[1] So in original. Probably should read "duties".

§ 3013. Moneys of a municipal assistance corporation

1. All moneys of a corporation from whatever source derived may be paid to the treasurer of the corporation and be deposited forthwith in a bank or banks in the state designated by such corporation. The moneys in such account may be paid by the treasurer or other agent duly designated by the corporation on requisition of the chairman of the board of directors of the municipal assistance corporation or of such person or persons as the corporation may authorize to make such requisitions. All deposits of such moneys, may, if required by the corporation, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits, provided, however, that no funds or accounts held in the capital reserve fund may be invested in obligations of or guaranteed by the municipality being assisted or of any of its agencies. Such obligations may either be deposited with the treasurer or be held by a trustee or agent satisfactory to the corporation. The comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the corporation, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing.

2. Subject to the provisions of subdivision three of this section, any moneys of a corporation, including the proceeds of notes or bonds, not required for immediate use may be invested in obligations of the municipality being assisted or in obligations of the state or federal government, obligations of the principal of and interest on which are guaranteed by such municipality, the state or federal government, or obligations of agencies of such municipality, of the state or of the federal government which may, from time to time, be legally purchased by savings banks of the state as investment of funds belonging to them, or in secured time deposit or other interest-bearing accounts secured by such obligations; provided, however, that no funds held in a capital reserve fund may be invested in obligations of or guaranteed by the municipality being assisted or of any of its agencies.

3. A corporation shall have power to contract with holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of any moneys of the corporation, of any moneys held in trust or otherwise for the payment of notes or bonds, and to carry out such contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the corporation, and all banks and trust companies are authorized to give such security for such deposits.

4. Subject to the provisions of any contract with noteholders or bondholders and to the approval of the comptroller, the corporation shall prescribe a system of accounts.

§ 3014. Conditions on payment of funds to or purchase of obligations of municipality

1. A corporation shall require, in connection with any payment of funds to, or purchase or exchange of the obligations of, the municipality being assisted, or the extension of other benefits thereto, that such municipality agree to observe such conditions with respect to expenditure control, record keeping, accounting, budgeting, financial management and other practices of such municipality as may be set forth in or permitted under the special law creating such corporation. Such agreement may provide such remedies for failure to observe such conditions as shall be necessary or desirable to accompiish the purposes of this article and such special law and are authorized or permitted thereunder.

2. Notwithstanding the provisions of any other law, general, special or local, inconsistent with the provisions hereof, any municipality may sell notes and bonds authorized to be issued pursuant to the local finance law by private sale to the corporation or to receive moneys from the corporation as herein provided and such municipality is hereby authorized to agree to and undertake any agreements made pursuant to the terms hereof.

§ 3015. Agreement with the state

The state does hereby pledge to and agree with the holders of any notes or bonds issued by a corporation under this act that the state will not limit or alter the rights hereby vested in such corporation to fulfill the terms of any agreements made with the said holders thereof, or in any way impair the rights and remedies of such holders until such notes and bonds together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. A corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

§ 3016. State or state-aided municipality not liable on notes and bonds

The notes, bonds or other obligations of a municipal assistance corporation shall not be a debt of either the state or the municipality being assisted, and neither the state nor such municipality shall be liable thereon, nor shall they be payable out of any funds other than those of such corporation; and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 3017. Remedies of noteholders and bondholders

1. In the event that a corporation shall default in the payment of principal of or interest on or sinking fund payment on, any issue of notes or bonds after the same shall become due, whether at maturity or otherwise or in the event that a corporation shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes

or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of such corporation is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five percentum in principal amount of such notes or bonds then outstanding shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, including the right to require the corporation to carry out any agreement with such holders and to perform its duties under this act;

(b) bring suit upon such notes or bonds;

(c) by action or suit, require the corporation to account as if it were the trustee of any express trust for the holders of such notes or bonds;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds;

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceeding by the noteholder or bondholder trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county in which the principal office of the corporation is located.

4. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the governor, the corporation and to the attorney general of the state.

§ 3018. Notes and bonds as legal investments

The notes and bonds of a corporation are hereby made securities in which all public officers and bodies of this state and all political subdivisions of the state and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. Such notes and bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all political subdivisions of the state and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 3019. Exemption from taxation

1. It is hereby determined that the creation of a corporation and the carrying out of its corporate purpose is in all respects a public and governmental purpose for the benefit of the people of the state and for the improvement of their health, safety, welfare, comfort and security, and that said purposes are public purposes and that a corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this act.

2. The property of a corporation and its income and operations shall be exempt from taxation.

3. The notes and bonds of a corporation issued pursuant to authority granted in the special act creating it or this act and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts and other moneys received or to be received, pledged to pay, or secure the payment of, such notes or bonds shall at all times be free from taxation, except for estate and gift taxes and taxes on transfers.

§ 3020. Actions against a municipal assistance corporation; indemnification

1. An action against a municipal assistance corporation for death, personal injury or property damage or founded on tort shall not be commenced more than one year and ninety days after the cause of action shall have accrued nor unless a notice of claim shall have been served on a director of such corporation, or an officer or employee thereof designated by the corporation for such purpose, within the time limited by, and in compliance with the requirements of section fifty-e of the general municipal law.

2. The venue of every action, suit or special proceeding brought against a corporation shall be laid in the county in which the principal office of such corporation is located.

3. The state shall save harmless and indemnify directors, officers and employees of and representatives to a corporation pursuant to section seventeen of the public officers law, against any claim, demand, suit, or judgment arising by reason of any act or omission to act by such director, officer, employee or representative occurring in the discharge of his duties and within the scope of his service on behalf of such corporation. In the event of any claim, demand, suit or judgment based on allegations that financial loss was sustained by any person in connection with the acquisition, disposition or holding of securities or other obligations of a corporation (or those of any other public corporation if such loss allegedly resulted from its dealing with a municipal assistance corporation), a director, officer or employee of or representative to a municipal assistance corporation shall be saved harmless and indemnified, notwithstanding the limitations of subdivision one of section seventeen of the public officers law, unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he reasonably believed to be in the best interest of such corporation or not to have had reasonable cause to believe that his conduct was lawful.

§ 3021. Assistance by state officers, departments, boards and commissions

1. The department of audit and control, department of law, and all other state agencies may render such services to a corporation within their respective functions as may be requested by such corporation.

2. Upon request of a corporation, any state agency is hereby authorized and empowered to transfer to the corporation such officers and employees as it may deem necessary from time to time to assist such corporation in carrying out its functions and duties under this act. Officers and employees so transferred shall not lose or forfeit their civil service status or rights.

§ 2. The tax law is hereby amended by adding thereto two new sections, to be sections eleven hundred seven and eleven hundred eight, to read as follows:

§ 1107. Temporary municipal assistance sales and compensating use taxes for cities of one million or more

(a) General. On the first day of the first month following the month in which a municipal assistance corporation is created under article ten of the public authorities law [1] for a city of one million or more, in addition to the taxes imposed by sections eleven hundred five and eleven hundred ten, there is hereby imposed on such date, within the territorial limits of such city, and there shall be paid, additional taxes, at the rate of four percent, which except as provided in subdivision (b) of this section, shall be identical to the taxes imposed by sections eleven hundred five and eleven hundred ten. Such sections and the other sections of this article, including the definition and exemption provisions, shall apply for purposes of the taxes imposed by this section in the same manner and with the same force and effect as if the language of those sections had been incorporated in full into this section and had expressly referred to the taxes imposed by this section.

(b) Exceptions. (1) The exemptions provided for in paragraph (12) of subdivision (a) of section eleven hundred fifteen and subdivision (c) of such section shall not apply. (2) The transitional provisions contained in section eleven hundred six shall not apply to the taxes imposed by this section. (3) Where a sale of tangible personal property or services, including an agreement therefor, is made in a city in which the taxes imposed by subdivision (a) of this section apply, but the property sold or the property upon which the services were performed is or will be delivered to the purchaser elsewhere, such sale will not be subject to taxes imposed by such subdivision (a). However, if delivery occurs or will occur in any city where the tax imposed by such subdivision (a) applies, a vendor will be required to collect from the purchaser the sales or compensating use taxes imposed by this section. For the purposes of this section delivery shall be deemed to include transfer of possession to the purchaser and the receiving of the property by the purchaser. (4) The provisions of section twelve hundred fourteen shall be applicable to this section, but any reference in that section to a local sales or use tax imposed by a city shall mean the

additional taxes imposed by subdivision (a) hereof. (5) Where a retail sales tax or a compensating use tax was legally due and paid to any municipal corporation in this state, without any right to a refund or credit thereof, with respect to the sale or use of tangible personal property or any of the services subject to sales or compensating use tax, if the use of such property or services is then subject to the compensating use tax imposed by this section and such tax is at a higher rate than the rate of tax imposed by such municipal corporation, the tax imposed by this section shall also apply but only to the extent of the difference in such rates. For purposes of this subdivision, a payment to the tax commission of a tax imposed by a municipal corporation shall be deemed a payment to such municipal corporation.

(c) Tax on sale of service of parking, garaging or storing of motor vehicles. On the first day of the first month following the month in which a municipal assistance corporation is created under article ten of the public authorities law for a city of one million or more, in addition to the taxes imposed by sections eleven hundred five, eleven hundred ten and subdivision (a) of this section, there is hereby imposed on such date, within the territorial limits of such city, and there shall be paid, additional taxes at the rate of six percent on receipts from every sale of the service of providing parking, garaging or storing for motor vehicles by persons operating a garage (other than a garage which is part of premises occupied solely as a private one or two family dwelling), parking lot or other place of business engaged in providing parking, garaging or storing of motor vehicles. All provisions set forth in this article applicable to the taxes imposed under section eleven hundred five, including the definition and exemption provisions of this article, shall apply with respect to a tax imposed under this subdivision, except as to rate and except as otherwise provided herein. The transitional provisions contained in section eleven hundred six shall not apply to the taxes imposed by this section.

(d) Termination of taxes. At the end of the last day of the month in which all the notes and bonds of such municipal assistance corporation shall have been fully paid and discharged, together with interest thereon and interest on unpaid installments of interest, the taxes imposed by this section shall terminate. Despite such termination, the provisions of this section and any regulations promulgated thereunder, including the provisions with respect to assessment, payment, termination, collection and refund of such taxes, the requirements for filing returns, preservation of records and disposition of revenue shall continue in full force and effect with respect to all such taxes accrued up to the effective date of such termination.

[1] Public Authorities Law § 3001 et seq.

§ 1108. Temporary municipal assistance sales and compensating use taxes for cities of under one million

(a) General. On the first day of the first month following the month in which a municipal assistance corporation is created under article ten of the public authorities law for a city of less than one million, in

addition to the taxes imposed by sections eleven hundred five and eleven hundred ten, there is hereby imposed on such date, within the territorial limits of such city, and there shall be paid, additional taxes, at the rate of three percent, which except as provided in subdivision (b) of this section, shall be identical to the taxes imposed by sections eleven hundred five and eleven hundred ten. Such sections and the other sections of this article, including the definition and exemption provisions, shall apply for purposes of the taxes imposed by this section in the same manner and with the same force and effect as if the language of those sections had been incorporated in full into this section and has expressly referred to the taxes imposed by this section.

(b) Exceptions. (1) The receipts from the following shall be exempt from the tax on retail sales and the compensating use tax imposed by this section: All sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating, assembling, refining, mining, extracting, farming, agriculture, horticulture or floriculture, and all sales of telephone central office equipment and station apparatus or comparable telegraph equipment for use directly and predominantly in receiving at destination or in initiating and switching telephone or telegraph communications.

(2) The transitional provisions contained in section eleven hundred six shall not apply to the taxes imposed by this section.

(3) Where a sale of tangible personal property or services, including an agreement therefor, is made in a city in which the taxes imposed by subdivision (a) of this section apply, but the property sold or the property upon which the services were performed is or will be delivered to the purchaser elsewhere, such sale will not be subject to taxes imposed by such subdivision (a). However, if delivery occurs or will occur in any city where tax the imposed by such subdivision (a) applies, a vendor will be required to collect from the purchaser, the sales or compensating use taxes imposed by this section. For the purposes of this section delivery shall be deemed to include transfer of possession to the purchaser and the receiving of the property by the purchaser.

(4) The provisions of section twelve hundred fourteen shall be applicable to this section, but any reference in that section to a local sales or use tax imposed by a city shall mean the additional taxes imposed by subdivision (a) hereof.

(5) Where a retail sales tax or a compensating use tax was legally due and paid to any municipal corporation in this state, without any right to a refund or credit thereof, with respect to the sale or use of tangible personal property or any of the services subject to sales or compensating use tax, if the use of such property or services is then subject to the compensation [1] use tax imposed by this section and such tax is at a higher rate than the rate of tax imposed by such municipal corporation, the tax imposed by this section shall also apply but only to the extent of the difference in such rates. For purposes of this sub-

division, a payment to the tax commission of a tax imposed by a municipal corporation shall be deemed a payment to such municipal corporation.

(c) Termination of taxes. At the end of the last day of the month in which all the notes and bonds of such municipal assistance corporation shall have been fully paid and discharged, together with interest thereon and interest on unpaid installments of interest, the taxes imposed by this section shall terminate. Despite such termination, the provisions of this section and any regulations promulgated thereunder, including the provisions with respect to assessment, payment, termination, collection and refund of such taxes, the requirements for filing returns, preservations of records and disposition of revenue shall continue in full force and effect with respect to all such taxes accrued up to the effective date of such termination.

[1] So in original. Probably should read "compensating".

§ 3. Section eleven hundred forty-eight of such law, as amended by chapter six hundred ten of the laws of nineteen hundred sixty-nine, is hereby amended to read as follows:

§ 1148. Deposit and disposition of revenue

The tax commission shall deposit daily to the credit of the comptroller all taxes, penalties and interest collected under this article in a responsible bank, banking house or trust company as may be designated by the comptroller. The comptroller shall require adequate security from all such depositories. Of the revenue collected under this article the comptroller shall retain in his hands such amount as the commissioner of taxation and finance may determine to be necessary for refunds under this article out of which the comptroller shall pay any refunds made under the provisions of this article. The comptroller, after reserving such refund fund, shall on or before the twelfth day of each month, pay all taxes, interest and penalties collected under this article and remaining to his credit in such banks, banking houses or trust companies at the close of business on the last day of the preceding month, into the general fund of the state treasury, except as otherwise provided in section ninety-two-d of the state finance law.

§ 4. Section twelve hundred ten of such law is hereby amended by adding thereto four new subdivisions, to be subdivisions (f), (g), (h) and (i), to read as follows:

(f) On the first day of the first month following the month in which a municipal assistance corporation is created under article ten of the public authorities law [1], any taxes imposed pursuant to this section by the city in aid of which such corporation was created and, except as hereinafter provided for in subdivision (h) of this section, the power of such city to adopt and amend local laws, ordinances or resolutions imposing taxes pursuant to the authority of such section shall, notwithstanding any provision of article twenty-nine of this chapter [2] to the contrary, be suspended until all the notes and bonds of such municipal assistance corporation shall have been fully paid and discharged together with interest thereon and interest on unpaid installments of interest.

(g) All of the enabling act provisions, which authorized the imposition of the taxes suspended pursuant to this section, the local laws,

ordinances, and resolutions imposing such taxes, any regulations promulgated with respect to such taxes, including the provisions with respect to assessment, payment, determination, collection and refund of such taxes, requirements for filing returns, preservation of records and disposition of revenue shall continue in full force and effect with respect to all such taxes accrued up to the effective date of such suspension.

(h) Notwithstanding the provisions of subdivision (f) of this section, any city having a population of one million or more in which a municipal assistance corporation is created under article ten of the public authorities law shall continue to be authorized and empowered to adopt and amend local laws, imposing taxes, at a rate not to exceed four percent on the receipts of sales from the services of laundering, dry-cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining, and charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant such as bowling alleys and swimming pools. Such taxes shall be administered, collected and distributed by the state tax commission as provided in subpart B of part III and in part IV of this article.

(i) On the first day of the first month following the month in which the state taxes provided for in section eleven hundred seven are terminated, the suspension provided for in subdivision (f) of this section shall terminate and any taxes which were in effect immediately prior to the effective date of the suspension shall go into full force and effect.

[1] Public Authorities Law § 3001 et seq.
[2] Tax Law § 1201 et seq.

§ 5. Section twelve hundred twelve-A of such law is hereby amended by adding thereto four new subdivisions, to be subdivisions (f), (g), (h) and (i), to read as follows:

(f) On the first day of the first month following the month in which a municipal assistance corporation is created under article ten of the public authorities law [1], any taxes imposed pursuant to this section by the city in aid of which such corporation was created and, except as hereinafter provided for in subdivision (h) of this section, the power of such city to adopt and amend local laws, ordinances or resolutions imposing taxes pursuant to the authority of such section shall, notwithstanding any provision of article twenty-nine of this chapter [2] to the contrary, be suspended until all the notes and bonds of such municipal assistance corporation shall have been fully paid and discharged together with interest thereon and interest on unpaid installments on interest.

(g) All of the enabling act provisions, which authorized the imposition of the taxes suspended pursuant to this section, the local laws, ordinances, and resolutions imposing such taxes, any regulations promulgated with respect to such taxes, including the provisions with respect to assessment, payment, determination, collection and refund of such taxes, requirements for filing returns, preservation of records and disposition of revenue shall continue in full force and effect with re-

spect to all such taxes accrued up to the effective date of such suspension.

(h) Notwithstanding the provisions of subdivision (f) of this section, any city having a population of one million or more in which a municipal assistance corporation under article ten of the public authorities law is created shall continue to be authorized and empowered, as provided in subdivision (a) of this section, to adopt and amend local laws imposing taxes, at the rate of eight percent, on receipts from every sale of the service of providing parking, garaging or storing for motor vehicles by persons operating a garage (other than a garage which is part of premises occupied solely as a private one or two family dwelling), parking lot or other place of business engaged in providing parking, garaging or storing for motor vehicles in any county within such city with a population density in excess of fifty thousand per square mile, as determined by reference to the latest federal census; and shall retain the power and authority to adopt and amend local laws imposing the taxes described in subdivision (b) of this section, subject to the provisions of subdivisions (d) and (e) of this section; provided that the taxes described in such subdivision (b) may be imposed at a rate not to exceed four percent. The taxes authorized to be imposed pursuant to this section shall be in addition to any other tax which such a city may impose or may be imposing pursuant to this article or any other law. Such taxes shall be administered, collected and distributed by the state tax commission as provided in subpart B of part III and in part IV of this article.

(i) On the first day of the first month following the month in which the state taxes provided for in section eleven hundred seven are terminated, the suspension provided for in subdivision (f) of this section shall terminate and any taxes which were in effect immediately prior to the effective date of the suspension shall go into full force and effect.

[1] Public Authorities Law § 3001 et seq.
[2] Tax Law § 1201 et seq.

§ 6. Section twelve hundred twenty-three of such law, as amended by chapter three hundred sixty-eight of the laws of nineteen hundred seventy-four, is hereby amended to read as follows:

§ 1223. Limitations on rates

No transaction taxable under sections twelve hundred two through twelve hundred four shall be taxed pursuant to this article by any county or by any city located therein, or by both, at an aggregate rate in excess of the highest rate set forth in the applicable subdivision of section twelve hundred one of this act or, in the case of any taxes imposed pursuant to the authority of section twelve hundred ten or twelve hundred eleven (other than taxes imposed by a city having a population of one million or more for the limited period provided in section twelve hundred ten or pursuant to subdivision (h) of section twelve hundred ten, at a rate in excess of three percent. If a transaction is taxed by both a county and a city, the rate of tax on such transaction imposed by the county or city, not having prior right thereto pursuant to section twelve hundred twenty-four, shall be deemed to be reduced (or the entire tax eliminated, if necessary) to the extent neces-

sary to comply with the foregoing requirement. A tax imposed by a county upon any transaction, to the extent that it would require a reduction in any tax rate imposed thereon by a city, shall not become effective in respect to any transaction taxed by such city (or in respect of other similar transactions outside of the city which, if occurring in such city, would be subject to such city tax) before the commencement of the city's next succeeding fiscal year and then only if the county shall have given notice to such city of its imposition of a tax on such transaction at least six months prior to the commencement of such fiscal year, provided however that the local legislative body of such city may waive the requirement of such notice and the postponement of the effective date of such tax. A city tax upon any transaction, to the extent that it would require a reduction in any tax rate imposed by a county thereon, shall not become effective in respect of any transaction taxed by such county before the commencement of the county's next succeeding fiscal year and then only if the city shall have given notice to such county of its imposition of a tax on such transaction at least six months prior to the commencement of such fiscal year, provided, however, that the local legislative body of such county may waive the requirement of such notice and the postponement of the effective date of such tax. However, whether or not the six months' notice requirement provided in this section has been waived, a tax imposed pursuant to the authority of section twelve hundred ten or twelve hundred eleven shall still be subject to the requirements provided for in the first three sentences of paragraph (d) of such sections and in paragraph (e) of such sections.

§ 7.[1] The state finance law is hereby amended by adding thereto a new section to be section ninety-two-d, to read as follows:

[1] So in original. Probably should read "§ 7-a.".

§ 92-d. Municipal assistance tax fund

1. There is hereby established in the custody of the comptroller a special fund to be known as the municipal assistance tax fund. Within such fund, there is hereby established a special account for each municipal assistance corporation created under article ten of the public authorities law [1].

2. Such fund shall consist of the revenues derived from municipal assistance sales and compensating use taxes imposed by sections eleven hundred seven and eleven hundred eight of the tax law.

3. The taxes interest and penalties imposed, pursuant to sections eleven hundred seven or eleven hundred eight (as the case may be) of the tax law within the territorial limits of a city in aid of which a municipal assistance corporation has been created, and received by the state tax commission, after deducting the amount which the commissioner of taxation and finance shall determine to be necessary for reasonable costs of the state tax commission in administering, collecting and distributing such taxes, shall be appropriated (i) to the municipal assistance corporation which has been created in aid of such city in order to enable such corporation to fulfill the terms of any agreements made with the holders of its notes and bonds and to carry out its corporate purposes, including the maintenance of the capital reserve fund, and (ii) the balance, if any, to the city in aid of which such corporation has been created as hereinafter provided.

4. On or before the twelfth day of each month, the commissioner of taxation and finance shall certify to the comptroller the amount of all revenues so received during the prior month as a result of the taxes, interest and penalties so imposed and in addition on or before the last day of June the commissioner shall certify the amount of such revenues received during and including the first twenty-five days of June. The amount of revenues so certified shall be deposited by the comptroller in the municipal assistance tax fund and the amount attributable to the taxes, interest and penalties imposed within the territorial limits of a city in aid of which a municipal assistance corporation has been created shall be credited to a special account established in such fund for such corporation. Notwithstanding the foregoing provisions, the state tax commission may prorate revenue attributable to the first quarterly return period during which the taxes imposed by section eleven hundred seven or eleven hundred eight (as the case may be) of the tax law applies so as to separate from the revenue collected for that quarter pursuant to such taxes the revenue collected pursuant to local legislation adopted by a city pursuant to section twelve hundred ten or twelve hundred twelve-A of the tax law. Such a proration by the state tax commission shall be made on the basis of the ratio of the number of months during which such taxes were imposed during such quarterly return to the total number of months in such quarterly return to the total number of months in such quarterly return period when such proration is reasonably necessary to ascertain the amount of such money which must be deposited by the comptroller in such special account and the amount of such money which must be deposited pursuant to section twelve hundred sixty-one of the tax law. The commissioner of taxation and finance shall not be held liable for any inaccuracy in any certification under this subdivision.

5. Revenues in any special account in the municipal assistance tax fund shall be kept separate and shall not be commingled with any other moneys in the custody of the comptroller. All deposits of such revenues shall, if required by the comptroller, be secured by obligations of the United States or of the state having a market value equal at all times to the amount of such deposits and all banks and trust companies are authorized to give security for such deposits. Any such revenues in such fund may, in the discretion of the comptroller, be invested in obligations of the United States or of the state or in obligations the princip [2] of and interest on which are guaranteed by the United States or by the state.

6. Upon receipt by the comptroller of a certificate or certificates from the chairman of a municipal assistance corporation that such corporation requires a payment or payments in order to comply with any agreement with the holders of its notes and bonds and to carry out its corporate purposes, including the maintenance of the capital reserve fund, from the special account established for such corporation, each of which certificates shall specify the required payment or payments and the date when the payment or payments is required, the comp-

troller shall pay from such special account on or before the specified date or within thirty days after such receipt, whichever is later, to such corporation, as the chairman thereof may direct in any such certificate, the amount or amounts so certified. The chairman of such corporation shall furnish the commissioner of taxation and finance with copies of such certificates. The comptroller shall from time to time, but in no event later than the fifteenth day of October, January and April and the last day of June of each fiscal year, pay over and distribute to the chief fiscal officer of the city in aid of which such municipal assistance corporation has been created to be paid into the treasury of such city to the credit of the general fund all revenues in the special account established for such corporation in the municipal assistance tax fund, if any, in excess of the aggregate amount which the chairman of such corporation has certified to the comptroller and which has been previously appropriated and paid to such corporation as hereinabove authorized. In no event shall the comptroller pay over and distribute any revenues (other than the amount to be deducted for administering, collecting and distributing such sales and compensating use taxes) to any person other than the municipal assistance corporation unless and until the aggregate of all payments certified to the comptroller as required by such corporation as of such date in order to comply with its agreements with the holders of its notes and bonds and to carry out its corporate purposes, including the maintenance of the capital reserve fund, which remain unappropriated or unpaid to such corporation shall have been appropriated to such corporation and shall have been paid in full; provided, however, that no person, including such corporation or the holders of its notes or bonds shall have any lien on such revenues and such agreement shall be executory only to the extent of such revenues available to the state in such special account. On the day on which the comptroller pays over and distributes to the chief fiscal officer of such city any revenues from such special account the commissioner of taxation and finance shall certify to the comptroller the amount to be deducted for administering, collecting and distributing the tax imposed pursuant to section eleven hundred seven or eleven hundred eight (as the case may be) of the tax law within the territorial limits of such city since he last certified such amount and the comptroller shall pay such amount into the general fund of the state treasury to the credit of the state purposes fund therein.

7. In the event that the amount of revenues in the special account established for the municipal assistant corporation for the city of New York in the municipal assistance tax fund which have been appropriated to such corporation shall at any time be less than the amount which the chairman of such corporation has certified to the comptroller as required in order to comply with its agreeements with the holders of its notes and bonds and to carry out its corporate purposes, including the maintenance of the capital reserve fund, then and in such event the comptroller shall forthwith certify to the commissioner of taxation and finance the amount of the difference between the revenues in such

special account and the amount so certified as required by such corporation and upon receipt of such certificate the commissioner of taxation and finance shall approve a voucher for payment of the amount of such difference into such special account in the municipal assistance tax fund from the stock transfer tax fund established pursuant to subdivision one of section ninety-two-b of the state finance law at the next date for payment from such fund as provided in subdivision four of such section, anything in said section to the contrary notwithstanding.

8. All payments of moneys from the municipal assistance tax fund shall be made on the audit and warrant of the state comptroller.

[1] Public Authorities Law § 3001 et seq.
[2] So in original. Probably should read, "principal".

§ 7.[1] Subdivisions three and four of section ninety-two-b of such law, as amended by chapter seven hundred sixty-eight of the laws of nineteen hundred sixty-nine, are hereby amended to read as follows:

[1] So in original. Probably should read "§ 7-b.".

3. The moneys received from such tax and other sources in such fund, after deducting the amount the commissioner of taxation and finance shall determine to be necessary for reasonable costs of the state tax commission in administering, collecting and distributing such tax, commencing with the fiscal year ending March thirty-first, nineteen hundred seventy-seven, shall be appropriated to (i) the municipal assistance corporation for the city of New York created pursuant to title three of article ten of the public authorities law [1] in order to enable such corporation to fulfill the terms of any agreements made with the holders of its notes and bonds and to carry out its corporate purposes including the maintenance of the capital reserve fund and (ii) to the extent such moneys are not required by such corporation as provided in subdivision seven of section ninety-two-d of the state finance law as added by a chapter of the laws of nineteen hundred seventy-five to the city of New York, for the support of local government.

4. After the deduction of such costs of the state tax commission in administering, selecting and distributing such tax, the balances in such fund so appropriated shall be distributed and paid on the last day of September, December, March and June into the special account established for the municipal assistance corporation for the city of New York in the municipal assistance tax fund established pursuant to subdivision one of section ninety-two-d of the state finance law as added by a chapter of the laws of nineteen hundred seventy-five, unless and to the extent the balances in such fund on each such last day are not required by such corporation as provided in said subdivision seven of said section ninety-two-d of the state finance law in which case the balance not so required, if any, shall be distributed and paid to the chief fiscal officer of the city of New York to be paid into the treasury of the city to the credit of the general fund, and on each such day, the commissioner of taxation and finance shall certify to the comptroller the amount deducted for administering, collecting and distributing such tax during such quarterly period and shall pay such amount into the general fund of the state treasury to the credit of the state purposes fund therein. In no event shall any amount (other than the amount to be deducted for administering, collecting and distributing such tax) be distributed or paid

from the stock transfer fund to any person other than the municipal assistance corporation for the city of New York unless and until the aggregate of all payments certified to the comptroller as required by such corporation in order to comply with its agreements with the holders of its notes and bonds and to carry out its corporate purposes, including the maintenance of the capital reserve fund, which remain unappropriated or unpaid to such corporation shall have been appropriated to such corporation and shall have been paid in full provided, however, that no person, including such corporation or the holders of its notes or bonds shall have any lien on such tax and such agreements shall be executory only to the extent of the balances available to the state in such fund.

[1] Public Authorities Law § 3001 et seq.

§ 8. Inconsistent provisions of other laws superseded. Insofar as the provisions of this act are inconsistent with the provisions of any other law, general or special, the provisions of this act shall be controlling.

§ 9. If any provision of this act is declared unconstitutional, no other provisions of this act shall be rendered ineffective, unless inseparable from the provision declared to be unconstitutional.

§ 10. This act shall take effect immediately.

New York City—Municipal Assistance Corporation

CHAPTER 169

An Act to amend the public authorities law, in relation to creating the municipal assistance corporation for the city of New York; to amend the state finance law, in relation to bonds and notes of such corporation; and to amend the public authorities law, in relation to the termination of the authority and existence of the New York city stabilization reserve corporation.

Approved and effective June 10, 1975.

Passed on message of necessity. See Const. art. IX, § 2(b)(2), and McKinney's Legislative Law § 44.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article ten of the public authorities law, as added by a chapter of the laws of nineteen hundred seventy-five, entitled "An Act to amend the public authorities law, in relation to municipal assistance corporations; to amend the tax law, in relation to the municipal assistance sales and compensating use tax; and to amend the state finance law, in relation to the municipal assistance tax fund",[1] is hereby amended by adding thereto a new title, to be title three, to read as follows:

[1] 1975 McKinney Session Laws, Chapter 168.

TITLE III—MUNICIPAL ASSISTANCE CORPORATION FOR THE CITY OF NEW YORK

Sec.
3030. Short title.
3031. Legislative findings and statement of purposes.
3032. Definitions.

Sec.
3033. Creation of the municipal assistance corporation for the city of New York; authorized indebtedness.
3034. Administration of the corporation.
3035. Exchange of notes or bonds of the corporation for short-term obligations of the city.
3036. Payments to the corporation; funds of the corporation.
3037. Payments to or purchases of obligations of the city.
3038. Conditions on extension of benefits to the city.
3039. Review by the corporation.
3040. Remedies of the corporation.

§ 3030. Short title

This title shall be known and may be cited as the "Municipal Assistance Corporation for the city of New York Act".

§ 3031. Legislative findings and statement of purposes

The legislature hereby finds and declares that it is necessary for a municipal assistance corporation to be created to assist the city of New York in providing essential services to its inhabitants without interruption and in creating investor confidence in the soundness of the obligations of such city so that it may retain its ability to sell its obligations to the public.

§ 3032. Definitions

As used in this title, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

1. "Corporation" means the corporate governmental agency created by section three thousand thirty-three of this chapter.
2. "City" means the city of New York.
3. "Mayor" means the mayor of the city of New York.
4. "City comptroller" means the comptroller of the city of New York.
5. "City budget director" means the director of management and budget of the city of New York.
6. "Short-term obligations" means tax anticipation notes, revenue anticipation notes, bond anticipation notes, budget notes and urban renewal notes.

§ 3033. Creation of the municipal assistance corporation for the city of New York; authorized indebtedness

1. There is hereby created the municipal assistance corporation for the city of New York. The corporation shall be a corporate governmental agency and instrumentality of the state constituting a public benefit corporation. It shall have the powers, privileges and duties of a corporation under title two of this article and under this title. The corporation shall continue for a term of one year after all its liabilities have been fully paid and discharged. Upon the termination of the

existence of the corporation, all of its rights and property shall pass to and be vested in the state.

2. The corporation shall not issue bonds and notes in an aggregate principal amount exceeding three billion dollars, excluding bonds and notes issued to refund outstanding bonds and notes;
provided, however, that if bonds and notes are issued by the New York City stabilization reserve corporation pursuant to title twenty-six of article eight of the public authorities law [1], the maximum principal amount of bonds and notes which may be issued by the corporation shall be decreased by the difference between the principal amount of such bonds and notes issued by the New York city stabilization reserve corporation and the principal amount of such bonds and notes held by the corporation.

3. No note or bond (i) shall mature more than fifteen years from the date of the original issue of such note or bond or (ii) or shall be issued on a date later than five years after the effective date of this act, unless such note is a renewal or refunding of an outstanding note or bond.

[1] Public Authorities Law § 2530 et seq.

§ 3034. Administration of the corporation

1. The corporation shall be administered by a board of directors, consisting of nine directors, none of whom shall be officers or employees of the federal government or of the state or political subdivisions thereof. All of the directors shall be appointed by the governor with the advice and consent of the senate, provided that four of such directors shall be appointed upon written recommendation of the mayor. Of the directors initially appointed upon the written recommendation of the mayor, one shall serve for a term ending December thirty-first, nineteen hundred seventy-six; one shall serve for a term ending December thirty-first, nineteen hundred seventy-seven; one shall serve for a term ending December thirty-first, nineteen hundred seventy-eight; and one shall serve for a term ending December thirty-first, nineteen hundred seventy-nine. Of the remaining directors initially appointed by the governor, one shall serve for a term ending December thirty-first, nineteen hundred seventy-six; one shall serve for a term ending December thirty-first, nineteen hundred seventy-seven; one shall serve for a term ending December thirty-first, nineteen hundred seventy-eight; and two shall serve for a term ending December thirty-first, nineteen hundred seventy-nine. Each director shall hold office until his successor has been appointed and qualified. Thereafter each director appointed by the governor shall serve a term of four years, except that any director appointed to fill a vacancy shall serve only until the expiration of his predecessor's term.

2. The speaker and the minority leader of the assembly, the president pro-tem and the minority leader of the senate, the city board of estimate acting by majority vote, and the vice-chairman of the city council, shall each be entitled to appoint a representative to the board of directors. Each such representative shall be entitled to receive no-

tice of and to attend all meetings of the board of directors but shall not be entitled to vote. No representative shall be an employee or officer of the federal, state or city governments. Each representative shall serve at the pleasure of the appointing official or body, shall be eligible for reappointment, and shall hold office until his successor has been appointed.

§ 3035. Exchange of notes or bonds of the corporation for short-term obligations of the city

1. The corporation may issue its notes or bonds in exchange for short-term obligations of the city, provided that the principal amount of the corporation's notes or bonds issued in any such exchange shall not exceed the principal amount of such short-term obligations and accrued interest thereon at the stated rate to the date of such exchange.

2. Upon receipt of the short-term obligations of the city exchanged in accordance with subdivision one hereof, the corporation may deliver such short-term obligations to the city, which shall thereupon cancel such obligations without making any payment of principal amount or accrued interest thereon and the city shall have no further liability with respect thereto. Notwithstanding the foregoing, the corporation shall not deliver bond anticipation notes received pursuant to subdivision one to the city for cancellation unless the city pays the principal amount and accrued interest thereon or pays accrued interest and exchanges such bond anticipation notes for other bond anticipation notes of the city in equal principal amounts and at not less than the same interest rate, in refunding or renewal thereof.

3. The corporation shall not exchange any of its bonds or notes for short-term obligations of the city pursuant to subdivision one hereof unless (a) the city shall have agreed to observe the conditions set forth in section three thousand thirty-eight of this chapter, subject to such modifications as are permitted thereunder and as the corporation may then approve, and (b) the board of directors of the corporation shall have determined that the terms of such exchange will not prejudice the rights of holders of other bonds and notes of the city.

§ 3036. Payments to the corporation; funds of the corporation

1. Not less than one hundred twenty days before the beginning of each fiscal year of the corporation (but not later than July 1, 1975 for the fiscal year ending June 30, 1976), the chairman of the board of directors of the corporation shall certify to the state comptroller and to the mayor a schedule setting forth the cash requirements of the corporation for such fiscal year and the time or times when such cash is required. The total amount so certified by such chairman for such fiscal year shall be equal to: (i) the amounts which are required to be deposited in the capital reserve fund during such fiscal year in order to maintain the capital reserve fund of the corporation at the level required in accordance with subdivision five of this section; (ii) the amounts required to be deposited in the debt service fund of the corporation to pay all interest and all payments of principal and redemp-

tion premium, if any, on notes and bonds maturing or otherwise coming due during such fiscal year; and (iii) the amounts required to be deposited in the operating fund of the corporation, as determined by the corporation, to meet the operating requirements and other expenses of the corporation during such fiscal year. If any increase shall occur in the cash requirements specified above, or if payments are required at a time or times earlier than previously certified or if the city shall for any reason fail to make timely payment of the principal and accrued interest due on any obligation issued by the city to the corporation and maturing within the same fiscal year, such chairman shall certify a revised schedule of cash requirements for such fiscal year to the state comptroller and to the mayor. The schedule accompanying each certification (or revision thereof) shall provide for such payment dates as the corporation deems appropriate to assure that sufficient funds will be available from the sources identified below to enable it to meet its current obligations as they come due. Upon receipt of such certification, or any revision thereof, the state comptroller shall pay such amount to the corporation for deposit in the appropriate funds, in accordance with such certification from the special account established for the corporation in the municipal assistance tax fund, in accordance with subdivision one of section ninety-two-d of the state finance law, including any amount transferred to the municipal assistance tax fund from the stock transfer tax fund pursuant to subdivision four of section 92-b of the state finance law. Any such payment shall be made within thirty days of receipt of the certification or at the time specified in the certification, whichever is later; provided that any such amounts shall have been first appropriated by the state for such purpose or shall have been otherwise made available. Any amount so paid to the corporation shall be deducted from the amount otherwise payable to the city from the municipal assistance tax fund established by section ninety-two-d of the state finance law and shall not obligate the state to make, nor entitle the city to receive, any additional payments.

2. Notwithstanding subdivision one of this section, prior to any transfers from the stock transfer tax fund to the municipal assistance tax fund, moneys, if any, payable to any other public benefit corporation from such fund pursuant to the provision of any law, the effective date of which is prior to the effective date of this title, shall be paid in full to such other corporation.

3. The corporation shall create and establish a special fund (herein referred to as capital reserve fund), and shall pay into such capital reserve fund (i) any moneys appropriated and made available by the state for the purposes of such fund, (ii) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the corporation authorizing the issuance thereof, and (iii) any other moneys which may be made available to the corporation for the purpose of such fund from any other source or sources. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the corporation, as the same mature

or otherwise become due, the purchase of bonds of the corporation, the payment of interest on such bonds of the corporation or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. If the amount contained in the capital reserve fund exceeds the amount required to be contained in such fund pursuant to this subdivision three of this section plus any additional amounts required to be contained in such fund pursuant to the terms of issuance of any bonds or notes, such excess moneys may be withdrawn from the capital reserve fund by the corporation; provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amounts as would reduce the amount of such fund to less than the amount of principal and interest maturing or otherwise becoming due in the succeeding calendar year on all bonds of the corporation then outstanding, except for the purpose of paying principal of and interest on such bonds of the corporation maturing or otherwise becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred by the corporation to any other fund of the corporation to the extent it does not reduce the amount of the capital reserve fund below the amount of principal and interest maturing or otherwise becoming due in the succeeding calendar year on all bonds of the corporation then outstanding.

4. In order further to assure the maintenance of the capital reserve fund, there shall be annually appropriated and paid to the corporation for deposit in the capital reserve fund such sum, if any, as shall be certified by the chairman to the governor and director of the budget as necessary to restore the capital reserve fund to an amount equal to the capital reserve fund requirement. The chairman of the board of directors of the corporation shall, annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sum, if any, required to restore the capital reserve fund to the amount aforesaid; and the sum or sums so certified, if any, shall be appropriated and paid to the corporation during the then current state fiscal year.

5. The corporation shall not issue bonds at any time if the amount of principal and interest maturing or otherwise becoming due in the succeeding calendar year on such bonds then to be issued and on all other bonds of the corporation then outstanding will exceed the amount of the capital reserve fund requirement at the time of issuance, unless the corporation, at the time of such issuance, shall deposit in the capital reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such fund, will be not less than the amount of principal and interest maturing or otherwise becoming due in the succeeding calendar year on such bonds then to be issued and on all other bonds of the corporation then outstanding (such amount is herein sometimes referred to as the capital reserve fund requirement). Notwithstanding the foregoing provisions of this subdivi-

sion for each of the calendar years set forth below the capital reserve fund requirement, as of any date of calculation, shall equal the percentage set forth opposite such calendar year of the amount of principal and interest maturing or otherwise becoming due during such calendar year on all bonds of the corporation outstanding on such date:

Calendar Year	Percentage
1975	0%
1976	0%
1977	25%
1978	50%
1979	75%
1980	100%

6. In computing the amount of the capital reserve fund for the purposes of this section securities in which all or a portion of such fund shall be invested shall be valued at par or if purchased at other than par, at amortized value.

7. The corporation shall create a debt service fund and an operating fund and may create and establish such other fund or funds as may be necessary or desirable for its corporate purposes.

8. The fiscal year of the corporation shall be the same as the fiscal year of the city.

§ 3037. Payments to or purchases of obligations of the city

In the event that the mayor from time to time certifies to the corporation an amount required by the city to enable it to pay, at maturity, the principal of and interest on any short-term obligations of the city, or to pay operating expenses of the city, the corporation may (i) pay to the city, or (ii) purchase from the city obligations hereafter issued by the city in an amount equivalent to, part or all of such certified amount. Moneys paid to the city pursuant to clause (i) or (ii) of this section shall be held in trust for the payment of short-term obligations or shall be used to pay operating expenses of the city. Any obligations issued by the city and purchased by the corporation pursuant to this section shall mature on a date not later than fifteen years from the original date of issue of such obligations. The corporation shall not make any payment to the city, or purchase any obligations from the city, pursuant to this section unless the city shall have agreed to observe the conditions set forth in section three thousand thirty-eight of this chapter, subject to such modifications as are permitted thereunder. The oustanding amounts paid to the city for operating expenses pursuant to clause (i) and clause (ii) of this subdivision shall not exceed one billion seven hundred twenty-five million dollars, provided that not more than nine hundred million dollars shall be obligations maturing in a fiscal year succeeding the fiscal year in which issued (of which not less than seven hundred fifty million dollars shall be applied for welfare or public education purposes, as to which state assistance payments have been or will be advanced to the city) and shall be evidenced by city obligations, and any balance shall be short term obligations payable in the fiscal year in which issued.

§ 3038. Conditions on extension of benefits to the city

The corporation shall, at the time of any exchange of the corporation's bonds and notes for short-term obligations of the city pursuant to subdivision two of section three thousand thirty-five of this chapter or any payment of funds of the corporation to the city or of any purchase from the city of its obligations pursuant to section three thousand thirty-seven of this chapter, require the city to agree to observe and perform the conditions set forth below in this section, with such limitations as to the implementation of such conditions as the corporation may, subject to any contract with bondholders or noteholders, then approve; provided, however that no such specific limitations shall be so substantial as to effectively constitute a waiver of any such conditions. Any such conditions may thereafter, in the discretion of the corporation, subject to any contract with bondholders or noteholders, be further limited. Such conditions shall cease to apply when all notes and bonds have been repaid or when the corporation has accumulated in its capital reserve fund or otherwise an amount equal to the principal of all outstanding notes and bonds and interest accrued thereon. The city shall have the right at any time to pay the corporation an amount which, when added to the capital reserve fund, shall equal the principal of all outstanding notes and bonds and interest accrued thereon and redemption premium if any. If the city makes such payment at a time when the corporation has outstanding notes or bonds that are not then callable, the city shall agree to pay the corporation on demand an amount equal to the amount, if any, by which the amount of interest on such notes or bonds shall exceed the corporation's income from the investment of its funds. Subject to the foregoing, the conditions that the corporation shall require the city to observe and perform shall be as follows:

1. The city shall deliver a certificate, executed by the mayor and the city comptroller in form prescribed by the corporation, (a) representing that the city is in compliance with the conditions described below in this section as the corporation may specify, (b) undertaking to comply with any of such specified conditions as the corporation may then require and (c) stating that all local legislative and executive action then required to permit such compliance by the city has been taken. The corporation may require the delivery with such certificate of an opinion of the city's corporation counsel that all such legislative and executive action has been taken.

2. The city shall, within ninety days after the first such agreement, initiate steps to adopt as the city's method of accounting for purposes of reporting to the corporation with respect to the city's financial condition and compliance with the conditions of this section, the accounting principles set forth in the state comptroller's uniform system of accounts for municipalities, as the same may be modified by the state comptroller, in consultation with the city comptroller, for application to the city. The city shall complete the transition to such accounting method as promptly as reasonably practicable thereafter and, in any event, so that the audited financial statements for the fiscal year ending June

thirtieth, nineteen hundred seventy-eight and for each subsequent fiscal year that are to be provided to the corporation pursuant to subdivision three of this section three thousand thirty-eight shall be prepared in accordance with such accounting methods, except as provided below in this subdivision. It is recognized that the adoption of such accounting principles may result in substantial adjustments from the accounting principles now followed by the city. The corporation and the city shall consult, over the course of the introduction and adoption of such accounting system, in order to formulate a mutually acceptable method of phasing such adjustments into such accounting system over such reasonable period, not exceeding ten years, as the corporation may determine to be appropriate and the financial statements and other information to be furnished to the corporation may, notwithstandnig any other provision of this section three thousand thirty-eight be prepared in accordance with such determination.

3. The city shall take such action as may be necessary to enable the state comptroller, or at his election an independent certified public accounting firm retained by the city but satisfactory to the state comptroller, to perform an annual audit and to furnish to the corporation an annual report, for the fiscal year ending June thirtieth, nineteen hundred seventy-eight and for each subsequent fiscal year, upon the financial statements of the city. Each such report shall be prepared in accordance with the accounting method prescribed under subdivision two of this section. The city shall make available for inspection and copying all books, records, work papers and other data and material as required by the state comptroller or the independent certified public accounting firm conducting such audit and the city shall make its officers and employees available to and shall cooperate with such auditors so as to permit such annual audit to be completed and the report issued to the city and to the corporation within one hundred twenty days after the close of the fiscal year. Such report shall be made available to the public promptly thereafter.

4. Beginning with the fiscal year ending June thirtieth, nineteen hundred seventy-seven and for each fiscal year thereafter, the city shall deliver a proposed expense budget to the corporation. Delivery to the corporation shall be made concurrently with the initial submission of the proposed expense budget to the board of estimate and the city council, but in any event not later than forty-five days prior to the beginning of such fiscal year. Beginning with the fiscal year ending June thirtieth, nineteen hundred seventy-eight, and for each fiscal year thereafter, the proposed expense budget submitted to the corporation shall be prepared in accordance with the accounting principles set forth in subdivision two of this section (except as may be modified by the application of subdivision five of this section). Such budget shall be identical to the proposed expense budget submitted to the board of estimate and city council except for any differences resulting from the application of such accounting principles. The proposed expense budget delivered to the corporation shall be accompanied by (i) a statement setting forth in

detail the assumptions of income and expense used in its preparation, (ii) a reconciliation of the differences, if any, between such proposed expense budget and the proposed expense budget submitted to the board of estimate and the city council, and (iii) a certificate of the mayor stating that such assumptions are reasonable and that operation within the budget is feasible and explaining the reasons for any differences therein from the proposed expense budget submitted to the board of estimate and the city council. The city shall in every fiscal year adopt and maintain an expense budget in which the total of all income items equals or exceeds the total of all expenditure items. For the fiscal year ending June thirtieth, nineteen hundred seventy-eight and each subsequent fiscal year the total of all income items shall also equal or exceed the total of all expenditure items in each expense budget as adopted by the city, after the adjustments, if any, required to conform to the accounting principles set forth in subdivision two of this section (except as may be modified by the application of subdivision five of this section) and the city shall also maintain a budget balanced in accordance with such accounting principles.

5. The city shall, over a period of ten fiscal years (except as provided in paragraph (e) of this subdivision), beginning with its fiscal year ending June thirtieth, nineteen hundred seventy-seven, eliminate from its capital budget those expenses that are properly includable only in its expense budget, as determined in accordance with the accounting principles set forth in the state comptroller's uniform system of accounts for municipalities, as the same may be modified by the state comptroller, in consultation with the city comptroller, for application to the city. The determination of which items are properly includable only in the city's expense budget shall be made in accordance with the aforesaid accounting principles regardless of any act of the legislature prior or subsequent to the effective date of this title otherwise classifying such items. To implement the foregoing:

(a) The mayor and the city comptroller shall, not later than October thirty-first, nineteen hundred seventy-five, certify to the corporation, a list, to the best of their information, of the expense items in the city's capital budget for the fiscal year ending June thirtieth, nineteen hundred seventy-six, and the amount of each such item;

(b) The comptroller (or the independent certified public accounting firm then retained pursuant to subdivision three of this section) shall prepare a determination of and shall report upon the expense items and the amount thereof in the city's capital budget for the fiscal year ending June thirtieth, nineteen hundred seventy-six and for each subsequent fiscal year, in accordance with the aforesaid accounting principles. Such report shall also include a statement as to the city's compliance with the conditions of this subdivision for the fiscal year reported upon and in the budget for the succeeding fiscal year;

(c) Unless the corporation shall approve the inclusion of a greater amount with respect to any such fiscal year, the aggregate amount of all such expense items included in the capital budget for the fiscal year end-

ing June thirtieth, nineteen hundred seventy-seven and for each following fiscal year shall be reduced at the cumulative rate of ten percent per year from the aggregate amount for the nineteen hundred seventy-six fiscal year set forth in the report provided for under paragraph (b) of this subdivision (or set forth in the certification under paragraph (a) of this subdivision if such report has not then been prepared). For the fiscal year ending June thirtieth, nineteen hundred eighty-six and thereafter, no such expense items shall be included in the city's capital budget;

(d) For the fiscal year ending June thirtieth, nineteen hundred seventy-seven and continuing thereafter, the city shall not include any new or additional item in its capital budget which, in accordance with the aforesaid accounting principles, is properly includable only in its expense budget; and

(e) On recommendation from the mayor, expressing the reasons therefor, the corporation shall consider and may approve an extension of the period over which such expense items are to be eliminated from the city's capital budget, but not beyond the fiscal year ending June thirtieth, nineteen hundred ninety-one. In the event any such extension is approved, the corporation shall without deferring the time when such elimination shall begin, approve an appropriate reduction in the cumulative annual rate of such elimination to not less than five percent.

6. If after the adoption of the expense budget for any fiscal year, any increase therein, or an increase in total expenditures shall be proposed, the mayor shall cause such proposal to be submitted to the corporation concurrently with its submission to the board of estimate and the city council, together with a statement of the source of current income or other identifiable and currently available funds required for the payment of such additional amounts.

7. Commencing at such time as the corporation may specify, but not later than December 1, 1975 the city budget director shall deliver to the corporation, not less than thirty days before each fiscal quarter (except, within thirty days after the commencement of the first fiscal quarter), an expenditure plan to implement the city expense budget for such fiscal quarter and within amounts based on current income or other identifiable and currently available funds. The city budget director shall deliver to the corporation within thirty days after the end of each such fiscal quarter covered by an expenditure plan, an operations report reflecting results of city operations for such fiscal quarter and whether the city has operated within the related expenditure plan. Each expenditure plan and operations report shall be in such form as the corporation may specify and shall be certified by the city budget director and shall detail and report upon action taken by the city to maintain a balanced expense budget.

8. The city shall comply in all material respects with the expenditure limitations in its budgets as adopted or modified in accordance with subdivision four and six of this section, except insofar as any noncompliance is the result of (a) such unanticipated circumstance occurring during such

fiscal year that would permit the issuance of budget notes, or (b) a mandatory increase in expenditures by reason of state or federal legislation enacted after the adoption of the city's budget for such fiscal year.

9. a. The city shall not, at any time permit the aggregate principal amount of its outstanding short-term obligations plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds of the corporation which have been refunded or renewed and less any short-term obligations of the city then held by the corporation) to exceed (i) six billion one hundred million (hereinafter called the base debt limit) plus (ii) an additional amount, not exceeding ten percent of the base debt limit; provided, however, that during the fiscal years ending June 30, 1976 and 1977 such additional amount may not exceed thirty percent of the base debt limit, during the fiscal year ending June 30, 1978 the additional amount may not exceed twenty-five per cent of the base debt limit, during the fiscal year ending June 30, 1979, the additional amount may not exceed twenty per cent of the base debt limit, and during the fiscal year ending June 30, 1980 the additional amount may not exceed fifteen per cent of the base debt limit.

b. In addition to the foregoing limitation the city shall not, at any date, permit the aggregate principal amount of its outstanding short-term obligations (excluding bond anticipation notes) plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds refunded or renewed and less any short-term obligations of the city then held by the corporation and less any short-term obligations of the city issued and payable within the same fiscal year) to exceed four billion five hundred million dollars plus, in the discretion of the board of directors, an additional amount not exceeding five hundred million dollars.

c. Notwithstanding any other provision of this act, the corporation shall not have the authority to modify or waive the limitations on the aggregate amount of outstanding short-term obligations of the city permitted to be outstanding in excess of the limits specified in paragraphs (a) and (b) of this subdivision.

d. Not less than twenty days prior to the issuance of any short-term obligations by the city, other than such obligations to be issued to the corporation, on or after July first, nineteen hundred seventy-five, the city comptroller shall deliver to the corporation a notice of intent to issue such obligations, specifying the amount and proposed terms thereof and the authority under which such obligations are proposed to be issued, together with a certificate of the city budget director specifying the purpose and the proposed source of funds for the redemption thereof. The city comptroller and the city budget director shall provide such additional information and shall be available for consultation as the corporation may request. If, within ten days after the receipt of such a notice from the city, the corporation determines after consultation with the city comptroller and the city budget director, that the issuance of such obligations would violate the limitation of this subdivision, the corporation shall deliver to the city comptroller

a certified copy of such determination within such 10-day period and the city comptroller shall not thereafter issue such obligations.

§ 3039. Review by the corporation

In order to determine whether the city has taken or is taking action to effect compliance with any conditions imposed pursuant to section three thousand thirty-eight of this chapter, the corporation may from time to time conduct a review of the records, accounts, budgets, forecasts, projections and other relevant materials of the city. The corporation may conduct such review by using (i) its own employees, (ii) its agents, or (iii) any state employees provided to the corporation for such purpose. The city shall make available for such review all books and records, and shall furnish copies of all financial statements, budgets, forecasts, projections, information or corrective action taken by the city in response to any notices from the corporation and all information related to the foregoing, as requested by the persons conducting such review, and shall make its officers and employees available to and shall otherwise cooperate with such persons to permit such review to be completed as promptly as possible.

§ 3040. Remedies of the corporation

1. The corporation shall cause each proposed expense budget, including related revenue estimates, submitted to it pursuant to subdivision four of section thirty hundred thirty-eight of this chapter, each report on expense items in the capital budget submitted to it pursuant to subdivision five of such section, each proposed modification furnished to it pursuant to subdivision six of such section and each expenditure plan and operations report submitted to it pursuant to subdivision seven of such section, to be reviewed promptly by the corporation's staff or designee.

2. If, within forty-five days after such receipt, the board of directors shall, in its judgment, determine that any such expense budget will not be balanced, either by its terms or because income is overestimated or expenditures are underestimated therein, or that a report of proposed modification pursuant to subdivision six of section thirty hundred thirty-eight of this chapter reflects that the expense budget would thereafter not be balanced, or that a condition imposed pursuant to such section has not been met or will not be met, with respect to such fiscal year, then the corporation shall promptly notify the mayor of such determination and shall review with him the manner in which corrective action may be taken in order to comply with such conditions.

3. In the event that the board of directors determines, following review with the mayor pursuant to subdivision two of this section that the corrective action necessary to cause compliance with the conditions of section thirty hundred thirty-eight of this chapter will not be taken, or determines as a result of a review made pursuant to section thirty hundred thirty-nine of this chapter or otherwise that the city is not compliance [1] with any of the conditions imposed pursuant to section thirty hundred thirty-eight of this chapter or that any representation or undertak-

ing contained in any certificate delivered pursuant to such section is materially incorrect or has not been complied with in all material respects, the corporation shall promptly certify a copy of such determination of noncompliance to the governor, the legislature, the state comptroller, the mayor, the board of estimate, the city council and the city comptroller and shall disclose such determination to the public.

4. The remedies described above in this section are not exclusive and, in addition thereto, the corporation shall have and may exercise all other rights and remedies provided by law.

[1] So in original. Probably should read "not in compliance".

§ 2. Section ninety-eight of the state finance law is hereby amended by adding thereto a new subdivision, to be subdivision seventeen, to read as follows:

17. Bonds and notes issued for any of the corporate purposes of the municipal assistance corporation for New York City.

§ 3. Section ninety-eight-a of such law, as amended by chapter seven of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

§ 98-a. Investment of general funds, bond proceeds, and other funds not immediately required

Any moneys in the general fund of the state or moneys received from the sale of any bonds or notes issued by the state, any moneys in any fund or account of the state, heretofore or hereafter established, the investment of which is not otherwise authorized and which are not immediately required may be invested by the comptroller. Such moneys may be invested only in obligations of the categories specified in subdivisions one to five, both inclusive, and subdivisions seven, fourteen, fifteen ~~and~~, sixteen and seventeen of section ninety-eight of this chapter, maturing or redeemable at the option of the holder within two years of the date of such investment or in a certificate of deposit of a bank or trust company in this state. Any certificate of deposit shall be fully secured by the issuer thereof depositing with the comptroller stocks, bonds, or notes of any county, town, city, village, fire district or school district of this state issued pursuant to law and maturing within five years from the date of issuance of such certificate of deposit, bonds or notes or direct or guaranteed obligations of the United States of America or its agencies or of the state of New York in an amount equal to the amount of such certificate of deposit. Any bonds, notes or certificates of deposit purchased with moneys of the general fund shall be available always to pay any lawful appropriation in force. Any bonds, notes or certificates of deposit purchased with moneys received from the sale of any bonds or notes issued by the state shall be available always for the purposes or purpose for which such bonds or notes were issued. Any bonds, notes or certificates of deposit purchased with moneys of any other funds shall be available always for the purpose for which such fund was created. Unless otherwise required by law, income received on any moneys invested pursuant to this section shall be credited to the fund or funds from which such moneys were invested, provided, however, that income received from the investment of moneys of the local assistance fund, the state purposes fund and the capital construction fund may be credited in whole or in part to one or more of such funds to the extent necessary to reimburse first instance appropriations for interest on temporary obligations issued on behalf of the fund or funds to be credited. Notwithstanding any other provision of this section or of any other general or special

law, all moneys available and retained on deposit for the payment of lottery prizes may be invested in obligations by the comptroller as herein provided, except that such obligations need not mature or be redeemable at the option of the holder within two years of the date of such investment. Income received from such investments may be used for the payment of prizes awarded and made payable in more than one payment, including prizes awarded and made payable throughout the lifetime of the lottery prize winner.

§ 4. Paragraph b of subdivision two of section one hundred five of such law is hereby amended by adding thereto a new subparagraph, to be subparagraph nineteen, to read as follows:

(19) Bonds or notes of the municipal assistance corporation for the city of New York.

§ 5. Title twenty-six of article eight of the public authorities law is hereby amended by adding thereto a new section, to be section twenty-five hundred fifty, to read as follows:

§ 2550. Termination of authority and existence

At such time as notes and bonds of the corporation or notes and bonds of the municipal assistance corporation for the city of New York, or any combination thereof, are outstanding in the aggregate principal amount equal to five hundred twenty million dollars, the purposes for which the corporation was created shall have been satisfied and the corporation shall not be authorized to issue any notes or bonds that would cause such aggregate amount to be exceeded. If the corporation has no notes or bonds outstanding at such time as its authorization to issue notes or bonds terminates, the existence of the corporation shall terminate.

§ 6. Inconsistent provisions of other laws superseded. Insofar as the provisions of this act are inconsistent with the provisions of any other law, general or special, the provisions of this act shall be controlling.

§ 7. If any provision of this act is declared unconstitutional, no other provisions of this act shall be rendered ineffective, unless inseparable from the provision declared to be unconstitutional.

§ 8. This act shall take effect immediately.

PRINCIPAL AMENDMENTS TO THE MAC LEGISLATION

(Pages Add. 41 to Add. 66)

New York City—Financial Emergency Act

CHAPTER 868

An Act in relation to enacting the New York state financial emergency act for the city of New York; to amend the executive law, in relation to the appointment of a special deputy comptroller for the city of New York; to amend the local finance law, in relation to tax receivable notes; to amend the state finance law, in relation to the investment of state funds in bonds and notes issued for any of the corporate purposes of the municipal assistance corporation for the city of New York; to amend the retirement and social security law, in relation to investment of public pension funds in such municipal assistance corporation securities; in relation to enacting the investment of funds by pension and retirement systems for public employees act; to amend the workmen's compensation law, in relation to the purchase by the state insurance fund of bonds and notes of such municipal assistance corporation; to amend the public authorities law, in relation to the issuance and maturity of bonds and notes of such municipal assistance corporation; to amend the state finance law, in relation to the payment of per capita aid to the city of New York; to amend the state finance law, in relation to the establishment of a municipal assistance state aid fund; to amend the education law, in relation to the payment by the city of New York to the city university construction fund; to amend the private housing finance law, in relation to bonds and notes of the New York city housing development corporation; to amend the New York city charter, in relation to the investment of sinking fund moneys of the city of New York in obligations of the municipal assistance corporation for the city of New York; to amend the public authorities law, in relation to the contents of certain agreements with holders of notes or bonds issued by any municipal assistance corporation; to amend the public authorities law, in relation to making bonds or notes of the New York city stabilization reserve corporation legal investments for public authorities; to amend the local finance law, in relation to the authority of municipalities to assign for collateral or pledge its mortgage interest; to amend the private housing finance law, in relation to certain assignments for collateral or pledges by a municipality of its mortgage interest in a project; to amend the local finance law, in relation to assistance to certain municipalities during periods of financial emergency; to amend the public authorities law, in relation to certain payments and funds of the municipal assistance corporation for the city of New York; and making an appropriation for the corporate purposes of the city of New York; and making a first instance appropriation from the local assistance fund to the city of New York.

Approved Sept. 9, 1975, effective as provided in section 26.
Passed on message of necessity. See Const. art. IX, § 2(b)(2), and McKinney's Legislative Law § 44.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 9. Subdivisions two and three of section three thousand thirty-three of the public authorities law, as added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, are hereby amended to read, respectively, as follows:

2. ~~The~~ Subject to the provisions of any contract with noteholders or bondholders, the corporation shall not issue bonds and notes in an aggregate principal amount exceeding ~~three~~ five billion dollars, excluding bonds and notes issued to refund outstanding bonds and notes~~, provided, however, that if bonds and notes are issued by the New York city stabilization reserve corporation pursuant to title twenty-six of article eight of the public authorities law, the maximum principal amount of bonds and notes which may be issued by the corporation shall be decreased by the difference between the principal amount of such bonds and notes issued by the New York city stabilization reserve corporation and the principal amount of such bonds and notes held by the corporation~~.

3. No note or bond (i) shall mature more than ~~fifteen~~ twenty years from the date of the original issue of such note or bond or (ii) ~~or~~ shall

be issued on a date later than five years after the effective date of this act, unless such note or bond is a renewal or refunding of an outstanding note or bond.

§ 10. Section three thousand thirty-three of such law is hereby amended by adding thereto a new subdivision, to be subdivision four, to read as follows:

4. If the bond resolution or other resolution pursuant to which any obligations of the corporation are issued shall designate, with the approval of any emergency financial control board then established for the city or, if none, then with the approval of the mayor, the corporation may hereafter issue obligations which shall, upon maturity, at the election of the holder thereof or exclusively if so provided in such obligations, be receivable at full face value and in lieu of cash in payment of any tax of the city, any installment of estimated tax of the city, or any interest or penalties thereon. Any obligations of the corporation so received in payment of any such tax or installment of estimated tax or interest or penalties shall either be cancelled by the officer receiving the same, as of the date of their receipt, and the cancelled obligations returned to the corporation or be presented to the corporation for payment to the city.

§ 11. Paragraph c of subdivision seven of section fifty-four of the state finance law, as amended by chapter ten hundred seventeen of the laws of nineteen hundred sixty-six, is hereby amended to read as follows:

c. Upon such certification of the amounts payable to counties, cities, villages and towns for town-wide and town outside village purposes, such per capita aid shall be apportioned and paid to the chief fiscal officer of each such locality pursuant to this section on audit and warrant of the state comptroller out of moneys appropriated by the legislature for such purpose to the credit of the local assistance fund in the general fund of the state treasury; provided however that upon such certification of amounts payable to the city of New York, such per capita aid shall be apportioned and paid as follows: (i) any amounts then required to be paid to the city university construction fund pursuant to the city university construction fund act, (ii) any amounts required to be paid to the New York city housing development corporation pursuant to the New York city housing development corporation act, (iii) any amounts required to be paid by the city to the state to repay an advance made in nineteen hundred seventy-two to the city to meet operating expenses of the New York city transit authority, (iv) any amounts required to be paid to the transit construction fund to meet any deficiency in annual payments due such fund by the city, (v) any amounts then required to be paid by the city to the state to repay an advance made in nineteen hundred seventy-four to subsidize the fare of the New York city transit authority, (vi) five hundred thousand dollars to the chief fiscal officer of the city of New York for payment to the trustees of the police pension fund of such city pursuant to the provisions of paragraph e of this subdivision, and (vii) the balance to the special account for the municipal assistance corporation for the city of New York in the municipal assistance state aid fund created pursuant to

section ninety-two-e of the state finance law. Notwithstanding any existing law, no payments of per capita aid payable to the city of New York shall be paid to the state of New York municipal bank board, the New York state sports authority or the transit construction fund so long as amounts of such aid are required to be paid into the municipal assistance state aid fund, and thereafter, after payment of the amounts described in subparagraphs (i) through (vi) the balance shall be paid (A) to the state of New York municipal bond bank to the extent provided by section twenty-four hundred thirty-six of the public authorities law, (B) to the New York state sports authority to the extent provided by section twenty-four hundred sixty-three of the public authorities law, (C) to the transit construction fund to the extent provided by section twelve hundred twenty-five-i of the public authorities law, and thereafter (D) to the city.

§ 12. Such law is hereby amended by adding thereto a new section, to be section ninety-two-e, to read as follows:

§ 92-e. Municipal assistance state aid fund

1. There is hereby established in the custody of the comptroller a special fund to be known as the municipal assistance state aid fund. Within such fund, there is hereby established a special account for each municipal assistance corporation created under article ten of the public authorities law.

2. Such fund shall consist of per capita aid apportioned pursuant to section fifty-four of the state finance law.

3. Such per capita aid apportioned to a city in aid of which a municipal assistance corporation has been created, shall be deposited by the comptroller to the credit of the special account established for the municipal assistance corporation which has been created in aid of such city in order to enable such corporation to fulfill the terms of any agreements made with the holders of its notes and bonds and to carry out its corporate purposes, including the maintenance of the capital reserve fund securing such bonds and notes, and, subject to the provisions of section fifty-four of the state finance law, the balance, if any, shall be paid to the chief fiscal officer of the city in aid of which such corporation has been created as hereinafter provided.

4. Revenues in any special account in the municipal assistance state aid fund shall be kept separate and shall not be commingled with any other moneys in the custody of the comptroller. All deposits of such revenues shall, if required by the comptroller, be secured by obligations of the United States or of the state having a market value equal at all times to the amount of such deposits and all banks and trust companies are authorized to give security for such deposits. Any such revenues in such fund may, in the discretion of the comptroller, be invested in obligations of the United States or of the state or in obligations the principal of and interest on which are guaranteed by the United States or by the state.

5. Upon receipt by the comptroller of a certificate or certificates from the chairman of a municipal assistance corporation that such

corporation requires a payment or payments in order to comply with any agreement with the holders of its notes and bonds and to carry out its corporate purposes, including the maintenance of the capital reserve fund securing such bonds, from the appropriate special account established for such corporation, each of which certificates shall specify the required payment or payments and the date when the payment or payments is required, the comptroller shall pay from such special account on or before the specified date or within thirty days after receipt of such certificate or certificates, whichever is later, to such corporation, as the chairman thereof may direct in any such certificate, the amount or amounts so certified. The comptroller shall from time to time, but in no event later than the fifteenth day of October, January and April and the last day of June of each fiscal year, pay over and distribute to the chief fiscal officer of the city in aid of which such municipal assistance corporation has been created to be paid into the treasury of such city to the credit of the general fund all revenues in the special account established for such corporation in the municipal assistance state aid fund, if any, in excess of the aggregate amount which the chairman of such corporation has certified to the comptroller and which has been previously paid to such corporation as hereinabove authorized. In no event shall the comptroller pay over and distribute any revenues to any person other than the municipal assistance corporation unless and until the aggregate of all payments certified to the comptroller as required by such corporation as of such date in order to comply with its agreements with the holders of its notes and bonds and to carry out its corporate purposes, including the maintenance of the capital reserve fund securing such bonds, which remain unpaid to such corporation shall have been paid in full to such corporation; provided, however, that no person, including such corporation or the holders of its notes or bonds shall have any lien on such revenues and such agreement shall be executory only to the extent of such revenues available to the state in such special account.

6. All payments of moneys from the municipal assistance state aid fund shall be made on the audit and warrant of the state comptroller.

§ 16. Subdivision six of section three thousand twelve of the public authorities law, as added by chapter one hundred sixty-eight of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

6. Anything in this article ten to the contrary notwithstanding, any agreement or agreements with the holders of notes or bonds issued by any municipal assistance corporation created by or pursuant to any title of this article shall contain a clause stating in substance that any provision in this article or in any such agreement or agreements which relate to taxes imposed under article twelve or sections eleven hundred seven or eleven hundred eight of the tax law of the state or to the funds created by sections ninety-two-b ~~and~~, ninety-two-d or ninety-two-e of the state finance law shall be deemed executory only to the extent of the moneys available to the state in such funds from time to time and no liability on account thereof shall be incurred by the state beyond the moneys available in such funds.

§ 20. Subdivisions three and five of section thirty hundred thirty-six of the public authorities law, as added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, are hereby amended to read, respectively, as follows:

3. The corporation shall create and establish a special fund (herein referred to as capital reserve fund), and shall pay into such capital reserve fund (i) any moneys appropriated and made available by the state for the purposes of such fund, (ii) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the corporation authorizing the issuance thereof, and (iii) any other moneys which may be made available to the corporation for the purpose of such fund from any other source or sources. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the corporation, as the same mature or otherwise become due, the purchase of bonds of the corporation, the payment of interest on such bonds of the corporation or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. If the amount contained in the capital reserve fund exceeds the amount required to be contained in such fund pursuant to this subdivision three of this section plus any additional amounts required to be contained in such fund pursuant to the terms of issuance of any bonds or notes, such excess moneys may be withdrawn from the capital reserve fund by the corporation; provided, however, that moneys in such fund shall not be withdrawn therefrom

at any time in such amounts as would reduce the amount of such fund to less than the amount of principal and interest maturing or otherwise becoming due in the succeeding calendar year on all bonds of the corporation then outstanding, except for the purpose of paying principal of and interest on such bonds of the corporation maturing or otherwise due or becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred by the corporation to any other fund of the corporation to the extent it does not reduce the amount of the capital reserve fund below the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on all bonds of the corporation then outstanding.

5. The corporation shall not issue bonds at any time if the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on such bonds then to be issued and on all other bonds of the corporation then outstanding will exceed the amount of the capital reserve fund requirement at the time of issuance, unless the corporation, at the time of such issuance, shall deposit in the capital reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such fund, will be not less than the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on such bonds then to be issued and on all other bonds of the corporation then outstanding (such amount is herein sometimes referred to as the capital reserve fund requirement). Notwithstanding the foregoing provisions of this subdivision for each of the calendar years set forth below the capital reserve fund requirement, as of any date of calculation, shall equal the percentage set forth opposite such calendar year of the amount of principal and interest maturing or otherwise due or becoming due during such calendar year on all bonds of the corporation outstanding on such date:

Calendar Year	Percentage
1975	0%
1976	0%
1977	25%
1978	50%
1979	75%
1980	100%

§ 21. Such law is hereby amended by adding thereto a new section, to be section thirty hundred thirty-six-a, to read as follows:

§ 3036-a. Further payments to the corporation; additional funds of the corporation

1. In addition to the total amount certified by such chairman for such fiscal year, all as referred to in subdivision one of section three thousand thirty-six, the chairman shall at the same time certify to the state comptroller and to the mayor a schedule setting forth additional cash requirements of the corporation which shall be equal to: (i) the amounts which are required to be deposited in the capital reserve fund authorized to be created and established pursuant to subdivision two of this section (in this section called the capital reserve fund) during such fiscal year in order to maintain the capital reserve fund at the level required in accordance with subdivision four of this section;

(ii) the amounts required to be deposited in the bond service fund of the corporation to pay all interest and all payments of principal and redemption premium, if any, on notes and bonds payable from the sources hereinafter identified in this section and maturing or otherwise coming due during such fiscal year; and (iii) the amounts required to be deposited in the operating fund of the corporation heretofore established, as determined by the corporation, to meet the operating requirements and other expenses of the corporation during such fiscal year. If any increase shall occur in such additional cash requirements specified above, or if payments are required at a time or times earlier than previously certified or if the city shall for any reason fail to make timely payment of the principal and accrued interest due on any obligation issued by the city to the corporation and maturing within the same fiscal year, such chairman shall certify a revised schedule of such additional cash requirements for such fiscal year to the state comptroller and to the mayor. The schedule accompanying each certification (or revision thereof) shall provide for such payment dates as the corporation deems appropriate to assure that sufficient funds will be available from the sources identified below to enable it to meet its current obligations under this section as they come due. Upon receipt of such certification, or any revision thereof, the state comptroller shall pay such amount to the corporation for deposit in the appropriate funds referred to in this section, in accordance with such certification from the special account established for the corporation in the municipal assistance state aid fund in accordance with subdivision one of section ninety-two-e of the state finance law and, subject to agreements with outstanding bond and note holders of the corporation, from the special account established for the corporation in the municipal assistance tax fund, in accordance with subdivision one of section ninety-two-d of the state finance law, including any amount transferred to the municipal assistance tax fund from the stock transfer tax fund pursuant to subdivision four of section ninety-two-b of the state finance law. Any such payment shall be made within thirty days of receipt of the certification or at the time specified in the certification, whichever is later; provided that any such amounts shall have been first appropriated by the state for such purpose or shall have been otherwise made available. Any amount paid to the corporation from such municipal assistance state aid fund shall be deducted from the amount otherwise payable to the city as per capita aid pursuant to section fifty-four of the state finance law and shall not obligate the state to make, nor entitle the city to receive, any additional payments of per capita aid. Any amount so paid to the corporation from the municipal assistance tax fund shall, in addition to the amount deducted pursuant to subdivision one of section three thousand thirty-six, be deducted from the amount otherwise payable to the city from the municipal assistance tax fund and shall not obligate the state to make, nor entitle the city to receive, any additional payments from such municipal assistance tax fund.

2. The corporation shall create and establish a capital reserve fund as an additional special fund, and shall pay into such capital reserve fund (i) any moneys appropriated and made available by the state for the purposes of such fund, (ii) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the corporation authorizing the issuance thereof, and (iii) any other moneys which may be made available to the corporation for the purpose of such fund from any other source or sources. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds secured by such capital reserve fund of the corporation, as the same mature or otherwise become due, the purchase of such bonds of the corporate, the payment of interest on such bonds of the corporation or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. If the amount contained in the capital reserve fund exceeds the amount required to be contained in such fund pursuant to this subdivision of this section plus any additional amounts required to be contained in such fund pursuant to the terms of issuance of any bonds or notes secured by such capital reserve fund, such excess moneys may be withdrawn from the capital reserve fund by the corporation; provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amounts as would reduce the amount of such fund to less than the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding, except for the purpose of paying principal of and interest on such bonds of the corporation maturing or otherwise becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred by the corporation to any other fund of the corporation to the extent it does not reduce the amount of the capital reserve fund below the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on all bonds of the corporation secured by such capital reserve fund then outstanding.

3. In order further to assure the maintenance of the capital reserve fund, there shall be annually appropriated and paid to the corporation for deposit in the capital reserve fund such sum, if any, as shall be certified by the chairman to the governor and director of the budget as necessary to restore the capital reserve fund to an amount equal to the capital reserve fund requirement. The chairman of the board of directors of the corporation shall, annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the sum, if any, required to restore the capital reserve fund to the amount aforesaid; and the sum or sums so certified, if any, shall be appropriated and paid to the corporation during the then current state fiscal year.

4. The corporation shall not issue bonds secured by the capital reserve fund at any time if the amount of principal and interest matur-

ing or otherwise due or becoming due in the succeeding calendar year on such bonds then to be issued and on all other such bonds of the corporation then outstanding will exceed the amount of the capital reserve fund requirement at the time of issuance, unless the corporation, at the time of such issuance, shall deposit in the capital reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such fund, will be not less than the amount of principal and interest maturing or otherwise due or becoming due in the succeeding calendar year on such bonds then to be issued and on all other bonds of the corporation secured by such capital reserve fund then outstanding (such amount is herein sometimes referred to as the capital reserve fund requirement). Notwithstanding the foregoing provisions of this subdivision for each of the calendar years set forth below the capital reserve fund requirement, as of any date of calculation, shall equal the percentage set forth opposite such calendar year of the amount of principal and interest maturing or otherwise due or becoming due during such calendar year on all bonds of the corporation secured by the capital reserve fund outstanding on such date:

Calendar Year	Percentage
1975	0%
1976	0%
1977	25%
1978	50%
1979	75%
1980	100%

5. In computing the amount of the capital reserve fund for the purposes of this section securities in which all or a portion of such fund shall be invested shall be valued at par or if purchased at other than par, at amortized value.

6. The corporation shall create a bond service fund.

New York City—Financial Emergency Act—Amendments

CHAPTER 870

An Act to amend a chapter of the laws of nineteen hundred seventy-five, entitled "An Act in relation to enacting the New York state financial emergency act for the city of New York; to amend the executive law, in relation to the appointment of a special deputy comptroller for the city of New York; to amend the local finance law, in relation to tax receivable notes; to amend the state finance law, in relation to the investment of state funds in bonds and notes issued for any of the corporate purposes of the municipal assistance corporation for the city of New York; to amend the retirement and social security law, in relation to investment of public pension funds in such municipal assistance corporation securities; in relation to enacting the investment of funds by pension and retirement systems for public employees act; to amend the workmen's compensation law, in relation to the purchase by the state insurance fund of bonds and notes of such municipal assistance corporation; to amend the public authorities law, in relation to the issuance and maturity of bonds and notes of such municipal assistance corporation; to amend the state finance law, in relation to the payment of per capita aid to the city of New York; to amend the state finance law, in relation to the establishment of a municipal assistance state aid fund; to amend the education law, in relation to the payment by the city of New York to the city university construction fund; to amend the private housing finance law, in relation to bonds and notes of the New York city housing development corporation; to amend the New York city charter, in relation to the investment of sinking fund moneys of the city of New York in obligations of the municipal assistance corporation for the city of New York; to amend the public authorities law, in relation to the contents of certain agreements with holders of notes or bonds issued by any municipal assistance corporation; to amend the public authorities law, in relation to making bonds or notes of the New York city stabilization reserve corporation legal investments for public authorities; to amend the local finance law, in relation to the authority of municipalities to assign for collateral or pledge its mortgage interest; to amend the private housing finance law, in relation to certain assignments for collateral or pledges by a municipality of its mortgage interest in a project; to amend the local finance law, in relation to assistance to certain municipalities during periods of financial emergency; to amend the public authorities law, in relation to certain payments and funds of the municipal assistance corporation for the city of New York; and making an appropriation for the corporate purposes of the city of New York; and making a first instance appropriation

from the local assistance fund to the city of New York" [1] in relation to the legislative intent thereof; to amend the New York State Financial Emergency Act for the City of New York, in relation to the definition of the term "Covered organization"; the compliance of certain contracts and obligations with the requirements of the financial plan; the approval of certain regulations; the review of certain proposed borrowing; the issuance of certain orders; the development of a financial plan; the time for delivery of certain estimates of revenues; the formulation and adoption and time of submission of the financial plan; requirements for items of aggregate expenditures; the deposit of revenues and application of funds in the emergency control board fund; the application of the wage freeze to certain contracts; to amend the retirement and social security law in relation to investments in municipal assistance corporation obligations; to amend the investment of funds by pension and retirement systems for public employees act in relation to investments by such systems in obligations of the municipal assistance corporation; to amend the workmen's compensation law, in relation to investments by the state insurance fund in obligations of the municipal assistance corporation; to amend the public authorities law, in relation to certain obligations of the municipal assistance corporation; the state finance law, in relation to the apportionment of certain amounts payable to the city of New York as per capita aid and the municipal assistance state aid fund; the education law, in relation to financial assistance by the city of New York to the dormitory authority; the private housing finance law, in relation to the amount of outstanding bonds and notes of the New York city housing development corporation; to amend the local finance law, in relation to assignment or pledge by a municipality of its mortgage interest in certain cases; notice of limitation of provisions; notice of claim; demand for payment; petition; petition of municipality; repayment plan; court approval and continuation of stay in certain cases and to repeal section 85.10 thereof relating to presentation of claims and commencement of actions against municipalities in certain cases and to amend section twenty-two of such chapter of the laws of nineteen hundred seventy-five, in relation to the availability of funds appropriated therein to the city of New York; the repayment by the city thereof; the apportionment of certain other funds of the city in default of such repayment.

[1] 1975 McKinney Session Laws, Chapter 868.
Approved and effective Sept. 9, 1975.
Passed on message of necessity. See Const. art. IX, § 2(b)(2), and McKinney's Legislative Law § 44.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 16. Subdivision four of section three thousand thirty-three of the public authorities law, as added by such chapter is hereby amended to read as follows:

4. If the bond resolution or other resolution pursuant to which any obligations of the corporation are issued shall designate, with the approval of any emergency financial control board then established for the city or, if none, then with the approval of the mayor, the corporation may hereafter issue obligations which shall, upon maturity, at the election of the holder thereof ~~or exclusively~~ if so provided in such obligations, be receivable at full face value and in lieu of cash in pay-

ment of any tax of the city, any installment of estimated tax of the city, or any interest or penalties thereon. Any obligations of the corporation so received in payment of any such tax or installment of estimated tax or interest or penalties shall ~~either be cancelled by the officer receiving the same, as of the date of their receipt, and the cancelled obligations returned to the corporation or~~ be presented to the corporation for payment to the city.

§ 17. Paragraph c of subdivision seven of section fifty-four of the state finance law, as amended by such chapter, is hereby amended to read as follows:

c. Upon such certification of the amounts payable to counties, cities, villages and towns for town-wide and town outside village purposes, such per capita aid shall be apportioned and paid to the chief fiscal officer of each such locality pursuant to this section on audit and warrant of the state comptroller out of moneys appropriated by the legislature for such purpose to the credit of the local assistance fund in the general fund of the state treasury; provided however that upon such certification of amounts payable to the city of New York, such per capita aid shall be apportioned and paid as follows: ~~(i) any amounts then required to be paid to the city university construction fund pursuant to the city university construction fund act, (ii) any amounts required to be paid to the New York city housing development corporation pursuant to the New York city housing development corporation act, (iii) any amounts required to be paid by the city to the state to repay an advance made in nineteen hundred seventy-two to the city to meet operating expenses of the New York city transit authority, (iv) any amounts required to be paid to the transit construction fund to meet any deficiency in annual payments due such fund by the city, (v) any amounts then required to be paid by the city to the state to repay an advance made in nineteen hundred seventy-four to subsidize the fare of the New York city transit authority, (vi) five hundred thousand dollars to the chief fiscal officer of the city of New York for payment to the trustees of the police pension fund of such city pursuant to the provisions of paragraph e of this subdivision, and (vii) the balance to the special account for the municipal assistance corporation for the city of New York in the municipal assistance state aid fund created pursuant to section ninety-two-e of the state finance law.~~ (i) any amounts required to be paid to the city university construction fund pursuant to the city university construction fund act, (ii) any amounts required to be paid to the New York city housing development corporation pursuant to the New York city housing development corporation act, (iii) any amounts required to be paid by the city to the New York city transit authority pursuant to the provisions of chapter seven of the laws of nineteen hundred seventy-two, (iv) any amounts required to be paid by the city to the state to repay an advance made in nineteen hundred seventy-four to subsidize the fare of the New York city transit authority, (v) five hundred thousand dollars to the chief fiscal officer of the city of New York for payment to the trustees of the police pension fund of such city pursuant to the provisions of paragraph e of this subdivision, (vi) eighty million dollars to the special account for the municipal assistance corporation for the city of New York in the municipal assistance tax fund created pursuant to section ninety-two-d of the state finance law to the extent that such amount has been included by the municipal assistance corporation for the city

of New York in any computation for the issuance of bonds on a parity with outstanding bonds pursuant to a contract with the holders of such bonds prior to the issuance of any other bonds secured by payments from the municipal assistance state aid fund created pursuant to section ninety-two-e of the state finance law, and (vii) the balance to the special account for the municipal assistance corporation for the city of New York in the municipal assistance state aid fund created pursuant to section ninety-two-e of the state finance law. Notwithstanding any existing law, no payments of per capita aid payable to the city of New York shall be paid to the state of New York municipal bond bank ~~board~~ agency, the New York state sports authority or the transit construction fund so long as amounts of such aid are required to be paid into the municipal assistance state aid fund, and thereafter, after payment of the amounts described in subparagraphs (i) through ~~(vi)~~ (vii) the balance shall be paid (A) to the state in repayment of the appropriation of two hundred fifty million dollars made to the city pursuant to the chapter of the laws of nineteen hundred seventy-five providing emergency financial assistance to the city of New York at the extraordinary session held in such year, as amended, (B) to the state of New York municipal bond bank agency to the extent provided by section twenty-four hundred thirty-six of the public authorities law, ~~(B)~~ (C) to the New York state sports authority to the extent provided by section twenty-four hundred sixty-three of the public authorities law, ~~(C)~~ (D) to the transit construction fund to the extent provided by section twelve hundred twenty-five-i of the public authorities law, and thereafter ~~(D)~~ (E) to the city.

§ 18. Subdivision two of section ninety-two-e of such law, as added by such chapter, is hereby amended to read as follows:

2. Such fund shall consist of per capita aid apportioned thereto pursuant to section fifty-four of the state finance law.

§ 27. Subdivision two of section ninety-two-d of the state finance law, as added by chapter one hundred sixty-eight of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

2. Such fund shall consist of the revenues derived from municipal assistance sales and compensating use taxes imposed by section eleven hundred seven and eleven hundred eight of the tax law and such amount of per capita aid apportioned and paid into such fund pursuant to paragraph e of subdivision seven of section fifty-four of this chapter.

New York City—Municipal Assistance Corporation

CHAPTER 889

An Act to amend the public authorities law, in relation to the monetary limitation on certian outstanding amounts paid to the city of New York for operating expenses and the amount of certain short-term obligations that may be issued until June thirtieth, nineteen hundred seventy-six by the city of New York and by the municipal assistance corporation for the city of New York.

Approved and effective Nov. 26, 1975.

Passed on message of necessity. See Const. art. IX, § 2(b)(2), and McKinney's Legislative Law § 44.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three thousand thirty-seven of the public authorities law, as added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

§ 3037. Payments to or purchases of obligations of the city

In the event that the mayor from time to time certifies to the corporation an amount required by the city to enable it to pay, at maturity, the principal of and interest on any short-term obligations of the city, or to pay operating expenses of the city, the corporation may (i) pay to the city, or (ii) purchase from the city obligations hereafter issued by the city in an amount equivalent to, part or all of such certified amount. Moneys paid to the city pursuant to clause (i) or (ii) of this section shall be held in trust for the payment of short-term obligations or shall be used to pay operating expenses of the city. Any obligations issued by the city and purchased by the corporation pursuant to this section shall mature on a date not later than fifteen years from the original date of issue of such obligations. The corporation shall not make any payment to the city, or purchase any obligations from the city, pursuant to this section unless the city shall have agreed to observe the conditions set forth in section three thousand thirty-eight of this chapter, subject to such modifications as are permitted thereunder. The outstanding amounts paid to the city for operating expenses pursuant to clause (i) and clause (ii) of this ~~subdivision~~ section shall not exceed on billion ~~seven~~ nine hundred twenty-five million dollars, provided that not more than nine hundred million dollars shall be obligations maturing in a fiscal year succeeding the fiscal year in which issued (of which not less than seven hundred fifty million dollars shall be applied for welfare or public education purposes, as to which state assistance payments have been or will be advanced to the city) and shall be evidenced by city obligations, and any balance shall be short term obligations payable in the fiscal year in which issued.

§ 2. Paragraph b of subdivision nine of section three thousand thirty-eight of such law, such section having been added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

b. In addition to the foregoing limitation the city shall not, at any date, permit the aggregate principal amount of its outstanding short-term obligations (excluding bond anticipation notes) plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds refunded or renewed and less any short-term obligations of the city then held by the corporation and less any short-term obligations of the city issued and payable within the same fiscal year) to exceed four billion five hundred millions dollars plus, in the discretion of the board of directors, an additional amount not exceeding five hundred million dollars plus, in the discretion of the board of directors, until June thirtieth, nineteen hundred seventy-six, a further additional amount not exceeding one hundred million dollars.

§ 3. If any provision of this act is declared unconstitutional, or other provisions of this act shall be rendered ineffective, unless inseparable from the provision declared to be unconstitutional.

§ 4. This act shall take effect immediately.

New York City—Bonds and Notes—Issuance, Etc.

CHAPTER 891

An Act to amend the public authorities law, in relation to the issuance of obligations by the municipal assistance corporation for the city of New York and in relation to increasing the monetary limitation on certain outstanding amounts paid by the corporation to the city of New York for operating expenses and increasing the amount of short-term obligations that may be issued until June thirtieth, nineteen hundred seventy-six by the city of New York and by such municipal assistance corporation.

Approved and effective Dec. 5, 1975.

Passed on Message of necessity. See Const. art. IX, § 2(b)(2), and McKinney's Legislative Law § 44.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section three thousand thirty-three of the public authorities law, as amended by chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

2. Subject to the provisions of any contract with noteholders or bondholders, the corporation shall not issue bonds and notes in an aggregate principal amount exceeding five billion two hundred fifty million dollars, excluding bonds and notes issued to refund outstanding bonds and notes.

§ 2. Section three thousand thirty-seven of such law, as amended by chapter eight hundred eighty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

§ 3037. Payments to or purchases of obligations of the city

In the event that the mayor from time to time certifies to the corporation an amount required by the city to enable it to pay, at maturity, the principal of and interest on any short-term obligations of the city, or to pay operating expenses of the city, the corporation may (i) pay to the city, or (ii) purchase from the city obligations hereafter issued by the city in an amount equivalent to, part or all of such certified amount. Moneys paid to the city pursuant to clause (i) or (ii) of this section shall be held in trust for the payment of short-term obligations or shall be used to pay operating expenses of the city. Any obligations issued by the city and purchased by the corporation pursuant to this section shall mature on a date not later than fifteen years from the original date of issue of such obligations. The corporation shall not make any payment to the city, or purchase any obligations from the city, pursuant to this section unless the city shall have agreed to observe the conditions set forth in section three thousand thirty-eight of this chapter, subject to such modifications as are permitted thereunder. The outstanding amounts paid to the city for operating expenses pursuant to clause (i) and clause (ii) of this section shall not exceed ~~one~~ two

billion ~~nine hundred twenty-five million~~ dollars, provided that not more than nine hundred million dollars shall be obligations maturing in a fiscal year succeeding the fiscal year in which issued (of which not less than seven hundred fifty million dollars shall be applied for welfare or public education purposes, as to which state assistance payments have been or will be advanced to the city) and shall be evidenced by city obligations, and any balance shall be short term obligations payable in the fiscal year in which issued.

§ 3. Paragraph b of subdivision nine of section three thousand thirty-eight of such law, as amended by chapter eight hundred eighty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

b. In addition to the foregoing limitation the city shall not, at any date, permit the aggregate principal amount of its outstanding short-term obligations (excluding bond anticipation notes) plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds refunded or renewed and less any short-term obligations of the city then held by the corporation and less any short-term obligations of the city issued and payable within the same fiscal year) to exceed four billion five hundred million dollars plus, in the discretion of the board of directors, an additional amount not exceeding five hundred million dollars plus, in the discretion of the board of directors, until June thirtieth, nineteen hundred seventy-six, a further additional amount not exceeding ~~one~~ two hundred million dollars.

§ 4. If any provision of this act is declared unconstitutional, no other provisions of this act shall be rendered ineffective, unless inseparable from the provision declared to be unconstitutional.

§ 5. This act shall take effect immediately.

New York City—Expense Budget—Requirements Clarification

CHAPTER 185

An Act to amend the public authorities law, in relation to clarification of certain requirements for the expense budget of the city of New York

Approved and effective June 1, 1977.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision four of section three thousand thirty-eight of the public authorities law, as added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

4. Beginning with the fiscal year ending June thirtieth, nineteen hundred seventy-seven and for each fiscal year thereafter, the city shall deliver a proposed expense budget to the corporation. Delivery to the corporation shall be made concurrently with the initial submission of the proposed expense budget to the board of estimate and the city council, but in any event not later than forty-five days prior to the beginning of such fiscal year. Beginning with the fiscal year

ending June thirtieth, nineteen hundred seventy-eight, and for each fiscal year thereafter, the proposed expense budget submitted to the corporation shall be prepared in accordance with the accounting principles set forth in subdivision two of this section (except as may be modified by the application of subdivision five of this section). Such budget shall be identical to the proposed expense budget submitted to the board of estimate and city council except for any differences resulting from the application of such accounting principles. The proposed expense budget delivered to the corporation shall be accompanied by (i) a statement setting forth in detail the assumptions of income and expense used in its preparation, (ii) a reconciliation of the differences, if any, between such proposed expense budget and the proposed expense budget submitted to the board of estimate and the city council, and (iii) a certificate of the mayor stating that such assumptions are reasonable and that operation within the budget is feasible and explaining the reasons for any differences therein from the proposed expense budget submitted to the board of estimate and the city council. The city shall in every fiscal year adopt and maintain an expense budget in which the total of all income items equals or exceeds the total of all expenditure items. For the fiscal year ending June thirtieth, nineteen hundred seventy-eight and each subsequent fiscal year the total of all income items shall also equal or exceed the total of all expenditure items in each expense budget as adopted by the city, after the adjustments, if any, required to conform to the accounting principles set forth in subdivision two of this section (except as may be modified by the application of subdivision five of this section) and the city shall also maintain a budget balanced in accordance with such accounting principles. Notwithstanding any other provision of this section to the contrary, any expense item in the expense budget for any fiscal year, which item relates to contributions by the city or other public employer to any retirement system or pension fund, shall include only the amounts which, under the provisions of law, rules or regulations expressly prescribing the method of determining employer contributions to such retirement system or pension fund and the time of payment thereof, are due and payable in such fiscal year, and no such expense item shall include amounts for any such contribution which, under such laws, rules or regulations, do not become due and payable in such fiscal year.

§ 2. Subdivision five of section three thousand thirty-eight of such law is hereby amended by adding thereto a new paragraph, to be paragraph (f), to read as follows:

(f) To implement this subdivision, and in order to provide full disclosure of all expense items properly includable only in the expense budget, the city shall include in its expense budget for each fiscal year by appropriation all expense items which are included in its capital budget for such fiscal year pursuant to paragraph e of this subdivision including judgments and claims related to other than capital projects, such items shall be stated separately and distinctly and the city may include in such expense budget as items of income, in addition to all other items of income properly includable in such expense budget pursuant to this section, all amounts to be applied to the payment of such expense items, which amounts may be derived from any source available to the city during such fiscal year, provided that such income shall be listed separately and distinctly.

§ 3. Paragraph (c) of subdivision five of section three thousand thirty-eight of such law, such section having been added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

(c) Unless the corporation shall approve the inclusion of a greater amount with respect to any such fiscal year, the aggregate amount of all such expense items included in the capital budget, including judgments and claims related to other than capital projects, for the fiscal year ending June thirtieth, nineteen hundred seventy-seven and for each following fiscal year shall be reduced at the cumulative rate of ten percent per year from the aggregate amount for the nineteen hundred seventy-six fiscal year set forth in the report provided for under paragraph (b) of this subdivision (or set forth in the certification under paragraph (a) of this subdivision if such report has not then been prepared). For the fiscal year ending June thirtieth, nineteen hundred eighty-six and thereafter, no such expense items shall be included in the city's capital budget;

§ 4. This act shall take effect immediately.

Laws of New York 1977
Ch. 456
Approved and Effective July 19, 1977

AN ACT to amend the public authorities law, in relation to the issuance of obligations by the municipal assistance corporation for the city of New York and in relation to increasing the amount of short-term obligations that may be issued by the city of New York and obligations that may be issued by such municipal assistance corporation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section three thousand thirty-three of the public authorities law, as amended by chapter eight hundred ninety-one of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

2. Subject to the provisions of any contract with noteholders or bondholders, the corporation shall not issue bonds and notes in an aggregate principal amount exceeding five billion [two] *eight* hundred [fifty] million dollars, excluding bonds and notes issued to refund outstanding bonds and notes.

§ 2. Paragraph a of subdivision nine of section three thousand thirty-eight of such law, as added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

a. The city shall not, at any time permit the aggregate principal amount of its outstanding short-term obligations plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds of the corporation which have been refunded, [or] renewed, *redeemed, paid or cancelled and less any notes and bonds deemed to have been paid pursuant to the provisions of any contract with noteholders or bondholders* and less any short-term obligations of the city then held by the corporation) to exceed (i) six billion [one] *six* hundred million (hereinafter called the base debt limit) plus (ii) an additional amount, not exceeding ten percent of the base debt limit; provided, however, that during the fiscal years ending June 30, 1976 and 1977 such additional amount may not exceed thirty percent of the base debt limit, during the fiscal year ending June 30, 1978 the additional amount may not exceed twenty-five per cent of the base debt limit, during the fiscal year ending June 30, 1979, the additional amount

EXPLANATION—Matter in italics is new; matter in brackets [ ] is old law to be omitted.

may not exceed twenty per cent of the base debt limit, and during the fiscal year ending June 30, 1980 the additional amount may not exceed fifteen per cent of the base debt limit.

§ 3. Paragraph b of subdivision nine of section three thousand thirty-eight of such law, as amended by chapter eight hundred ninety-one of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

b. In addition to the foregoing limitation the city shall not, at any date, permit the aggregate principal amount of its outstanding short-term obligations (excluding bond anticipation notes) plus the aggregate principal amount of all notes and bonds issued by the corporation (less *(i)* any notes or bonds *which have been* refunded or renewed *and any notes or bonds in an amount equal to the aggregate principal amount of bond anticipation notes of the city acquired by the corporation, whether or not then held by the corporation (except bond anticipation notes of the city acquired by the corporation in consideration of the surrender by the corporation to the city of bond anticipation notes of the city)*, **[**less**]** *(ii)* any short-term obligations of the city then held by the corporation *other than bond anticipation notes* and **[**less**]** *(iii)* any short-term obligations of the city issued and payable within the same fiscal year) to exceed four billion five hundred million dollars plus, in the discretion of the board of directors, an additional amount not exceeding five hundred million dollars plus, in the discretion of the board of directors, until June thirtieth, nineteen hundred seventy-six, a further additional amount not exceeding two hundred million dollars.

§ 4. If any provision of this act is declared unconstitutional, no other provisions of this act shall be rendered ineffective, unless inseparable from the provision declared to be unconstitutional.

§ 5. This act shall take effect immediately.